

COPY

IN THE CHANCERY COURT FOR DAVIDSON COUNTY, TENNESSEE
AT NASHVILLE

TIMOTHY KELLY,)
)
Plaintiff,)
)
v.)
)
BETH BHATNAGAR, SARAH YOUNG,)
ELLEN WOOLAVER,)
BILL KELLY, CAROLE KELLY,)
PATRICK MCCURDY,)
MICHAEL MCCURDY,)
KATHERINE ANN MCCURDY-IVEY,)
And UNKNOWN DESCENDANTS OF)
WILLIAM SCRUGGS, SR. d. 1859;)
SARAH W. SCRUGGS d. 1856;)
SARAH SCRUGGS d. 1849; and)
RACHEL WALDRON d. 1851,)
)
Defendants.)

DOCKET NO: 22-0824-IV

FILED
2022 JUN 10 AM 11:23
CLERK & CLERK
DAVIDSON CO CHANCERY CT
NASHVILLE

PETITION

COMES NOW Plaintiff Timothy Kelly, by and through his attorney of record Sean R. Aiello and the Law Firm of Schell & Oglesby, LLC hereby filing this *Petition* requesting to declassify the "Scruggs Cemetery" located inside Map and Parcel No. 158 00 0 034.00 as a cemetery under Tenn. Code Ann. § 46-41215-103 and for an order transferring interest in the same to him for incorporation into the surrounding parcel of real property.

JURISDICTION AND VENUE

1. Timothy Kelly is a believed descendant of William Scruggs, Sr. d. 1859; Sarah W. Scruggs d. 1856; and/or Sarah Scruggs d. 1849, and is a citizen and resident of Davidson County, Tennessee with a residence located at 3088 Hillsboro Rd. Brentwood, Tennessee 37027.

2. Defendant Beth Bhatnagar is a believed descendant of William Scruggs, Sr. d.

1859; Sarah W. Scruggs d. 1856; and/or Sarah Scruggs d. 1849, residing at 173 Los Robles Dr. Burlingame, CA 94010.

3. Defendant Sarah Young is a believed descendant of William Scruggs, Sr. d. 1859; Sarah W. Scruggs d. 1856; and/or Sarah Scruggs d. 1849, residing at 6015 Wellesley Way Brentwood, TN 37027.

4. Defendant Ellen Woolaver is a believed descendant of William Scruggs, Sr. d. 1859; Sarah W. Scruggs d. 1856; and/or Sarah Scruggs d. 1849, residing at 154 Main St. West Grimsley, Ontario L3M1S3 Canada.

5. Defendant Patrick Daniel McCurdy is a believed descendant of William Scruggs, Sr. d. 1859; Sarah W. Scruggs d. 1856; and/or Sarah Scruggs d. 1849, residing at 10555 W Jewell Ave Apt. 10-201 Denver, CO 80232.

6. Defendant Michael James McCurdy is a believed descendant of William Scruggs, Sr. d. 1859; Sarah W. Scruggs d. 1856; and/or Sarah Scruggs d. 1849, residing 5230 39th Dr. Apt. 6F Woodside, NY 11377.

7. Defendant Katherine Ann McCurdy-Ivey is a believed descendant of William Scruggs, Sr. d. 1859; Sarah W. Scruggs d. 1856; and/or Sarah Scruggs d. 1849, residing at 3809 Whiffletree Ct. Plano, TX 75023.

8. Defendant Bill Kelly is a believed descendant of William Scruggs, Sr. d. 1859; Sarah W. Scruggs d. 1856; and/or Sarah Scruggs d. 1849, residing at 2810 Blackwater Drive Murfreesboro, TN 37128.

9. Defendant Carole Kelly is a believed descendant of William Scruggs, Sr. d. 1859; Sarah W. Scruggs d. 1856; and/or Sarah Scruggs d. 1849, residing at 415 6th Ave. Columbia, TN 38491.

10. The subject real property lies in Davidson County and is a Tax-Exempt Cemetery plat located inside Map and Parcel No. 158 00 0 034.00 otherwise known as 6430 Hillsboro Pike.

11. Jurisdiction and venue are appropriate in the Chancery Court for Davidson County.

RELEVANT FACTS

12. Plaintiff Timothy Kelly is the owner of certain real property located in Davidson County located at 6430 Hillsboro Pike. **Exhibit A, *Quitclaim Deed.***

13. Said property contains within it a family cemetery known as the "Scruggs Cemetery" registered as a Tax-Exempt Cemetery plat with Metro Nashville. **Exhibit B, *Cemetery Property Description.*** Said cemetery was purported to have markers for the following individuals: (1) Scruggs, William, Sr. "Died Feb. 4, 1859 aged about 75 years" {Box Tomb}; (2) Scruggs, Sarah W. "Wife of Williams Scruggs, Sr. Born Dec. 16, 1778, Died May 20, 1856, Age 56 years 5 months & 4 days" {Box Tomb}; (3) Scruggs, Sarah "Wife of JM Scruggs, Jr., Born March 10, 1824, Died May 21, 1849" {Tall spire with top broken off}; (4) Waldron, Rachel "Born October 26, 1824, Died May 26, 1851." Within this cemetery, two large stone slabs and a tall spire remained on the site.

14. Showing the Scruggs Cemetery in relation to the surrounding property owned by Plaintiff, Plaintiff obtained and submits the forgoing property survey dated January 16, 2009. **Exhibit C, *January 16, 2009 Property Survey.***

15. Although purported by the tax maps of Metro Nashville to be a cemetery and presumed to contain burial remains, the two large labs and tall spire were relocated from a since lost original burial site to the subject site decades earlier by since deceased family members. When these memorials were moved, no burial remains were transferred with them to the Scruggs Cemetery. The location of the original burial site containing the associated remains, if any ever

existed, is unknown.

16. After original relocation, the Scruggs Cemetery memorials were clustered around a large cedar tree which has since blown down during a recent tornado and upended the two stone slabs and tall spire.

17. Following the storm damage, Plaintiff relocated at his own expense the memorials to Mount Hope Cemetery to preserve the memorials and prevent future damage. **Exhibit D, Memorial Relocation.**

18. At his own expense, Plaintiff commissioned and obtained ground penetrating radar services from GPRS, Inc. to survey and search for the existence of potential remains in the Scruggs Cemetery. As a result of that survey, GPRS, Inc. generated a report and findings that “no leading indicators of a burial were identified.” **Exhibit E, GPRS, Inc. Report.**

19. Additionally, Plaintiff engaged the Tennessee Historical Commission to review the GPRS, Inc. findings, conduct onsite visits, and to generate a report following the same. As a result G. Graham Parry, III, ABD issued a report entitled “*Site Report – Scruggs Cemetery, Davidson County, TN – Parcel Numbers: 158 00 0 034.00, 158 00 0 137.00, & 007 01902 Williamson.*” **Exhibit F, Tennessee Historical Commission Site Report.** The issued report issued the following material conclusion:

After consulting with the Department of Archeology, the Tennessee Historical Commission’s Cemetery preservation specialist Graham Perry supports the findings as presented in the second report issued by GPRS tendered to this office in rough draft form (GPRS report available upon request). This does not mean however that the Scruggs Cemetery does not exist on the property elsewhere as tax maps are notoriously inaccurate and it is acknowledged by several sources to exist. Had markers and the tree remained at the site prior to THS’s involvement, additional clarity would have been likely.

Id.

20. Under Tenn. Code Ann. § 46-1-102(1) “Cemetery” means any land or structure in

this state dedicated to and used, or intended to be used, for internment of human remains.” Accordingly, Petitioner contends that no human remains were ever located or intended to be located in the Scruggs Cemetery and that its classification as a “cemetery” under Title 46 is incorrect, warranting a declassification of the Scruggs Cemetery parcel.

21. Petitioner brings this *Petition* to declassify the Scruggs Cemetery parcel under Title 46, asserting the same to be appropriate as the grounds were improperly classified as a cemetery and burial grounds, or, in the alternative, said burial ground is abandoned or in a neglected or abandoned condition as described in Tenn. Code Ann. § 46-4-101.

22. Relevant to this action for declassification, Tenn. Code Ann. § 46-4-103 provides in relevant part as follows:

(a) Any interested person or persons, and/or any county in this state in which a burial ground is situated, and/or any municipality in this state if the burial ground is situated in the municipality or within one (1) mile of the lawful corporate limits of the municipality and not beyond the limits of the county in which any part of the municipality is situated and not within the lawful corporate limits of any other municipality in Tennessee, may bring or join in a suit in the chancery court of the county in which the burial ground is situated, for the following purpose or purposes:

- (1) To have the remains of all deceased persons buried in the burial ground removed from the burial ground and reburied in a suitable repository to be obtained for that purpose before their removal from the burial ground;
- (2) To terminate the use of, and all rights and easements to use, the ground as a burial ground, and all rights and easements incident or appurtenant to the ground as a burial ground; and
- (3) Thereupon, to partition or sell for partition the ground if the court finds that it belongs to two (2) or more persons and if any one (1) or more of the owners applies for partition. The authority of all municipalities in this state is extended, for the sole purpose of bringing or joining in the suit by the municipality, but for no other purpose, to a distance of one (1) mile from the lawful corporate limits of the municipality but not beyond the limits of the county in which any part of the municipality is situated and not so as to come within the lawful corporate limits of any other municipality of this state.

23. Given the location of the Scruggs Cemetery in Davidson County and Plaintiff's status as an interested person, venue and jurisdiction properly exist in the Chancery Court for Davidson County.

24. In said suit brought pursuant to Tenn. Code Ann. § 46-4-103, Plaintiff names all interested parties whom, to his knowledge are descendants of those individuals alleged to be buried in the Scruggs Cemetery. Specifically, Plaintiff has identified the following surviving descendants of (1) Scruggs, William, Sr. "Died Feb. 4, 1859 aged about 75 years" {Box Tomb}; (2) Scruggs, Sarah W. "Wife of Williams Scruggs, Sr. Born Dec. 16, 1978, Died May 20, 1956, Age 56 years 5 months & 4 days" {Box Tomb}; (3) Scruggs, Sarah "Wife of JM Scruggs, Jr., Born March 10, 1824, Died May 21, 1949" {Tall spire with top broken off}; (4) Waldron, Rachel "Born October 26, 1984, Died May 26, 1851":

- a. Beth Bhatnagar
173 Los Robles Dr.
Burlingame, CA 94010
- b. Sarah Young
6015 Wellesley Way
Brentwood, TN 37027
- c. Ellen Woolaver
154 Main St. West
Grimsley, Ontario L3M1S3 Canada
- d. Patrick Daniel McCurdy
10555 W Jewell Ave Apt. 10-201
Denver, CO 80232
- e. Michael James McCurdy
5230 39th Dr. Apt. 6F
Woodside, NY 11377
- f. Katherine Ann McCurdy-Ivey
3809 Whiffletree Ct.
Plano, TX 75023

g. Bill Kelly
2810 Blackwater Drive
Murfreesboro TN 37128

h. Carole Kelly
415 6th Ave.
Columbia, TN 38491

In the event any other unknown descendants exist, Plaintiff requests that under Tenn. Code Ann. § 46-4-103(b) he be permitted to proceed against the same by order of publication, and publication, in the manner provided by law.

25. Consistent with the requirements of Tenn. Code Ann. § 46-4-103, Plaintiff contemporaneously provides notice of this *Petition* to the Tennessee Historical Commission at their published address of State Historic Preservation Office 2941 Lebanon Pike Nashville, TN 37214 c/o Patrick McIntyre, Executive Director and State Historic Preservation Officer.

26. Upon declassification, Plaintiff requests the Court enter an order transferring the property contained within the Scruggs Cemetery to Plaintiff individually for incorporation into the encompassing property surrounding the same owned by him as depicted in the submitted survey attached as **Exhibit C** and corresponding deed attached as **Exhibit A**.

27. As an alternative basis for relief, Plaintiff brings this action as a declaratory judgment proceeding to quiet title and declare the Scruggs Cemetery improperly classified as a "cemetery" or burial grounds under Title 46.

WHEREFORE Plaintiff request as follows:

1. Proper process issue and be served upon the identified believed descendants of Scruggs, William, Sr.; Scruggs, Sarah W.; Scruggs, Sarah; and Waldron, Rachel;
2. Notice be provided to Tennessee Historical Commission at their published address of State Historic Preservation Office 2941 Lebanon Pike Nashville, TN 37214 c/o Patrick

McIntyre, Executive Director and State Historic Preservation Officer of these proceedings;

3. Pursuant to Tenn. Code § 46-4-103(b) Petitioner be permitted to proceed unnamed descendants by order of publication, and publication, in the manner provided by law;
4. Upon final hearing, the Court find the Scruggs Cemetery was improperly classified as a cemetery and burial grounds, or, in the alternative, said burial ground is abandoned or in a neglected or abandoned condition as described in Tenn. Code Ann. § 46-4-101;
5. Upon final hearing, the Court declassify the Scruggs Cemetery under Tenn. Code Ann. § 46-4-403;
6. The Court enter an order transferring the property contained within the Scruggs Cemetery to Plaintiff individually for incorporation into the encompassing property surrounding the same owned by him; and
7. Any and all such additional relief to which Plaintiff may be entitled.

Respectfully submitted,

SCHELL & OGLESBY, LLC


SEAN R. AIELLO, BPR #34568
509 New Highway 96 West, Suite 201
Franklin, Tennessee 37064
(615) 550-2800
saiello@franklin.legal

41
RNB

QUITCLAIM DEED

FROM: Timothy A. Kelly, Trustee of
the Thomas A. Kelly Trust
Under the Will of Thomas A.
Kelly,
Grantor

This instrument was prepared by:
Robert N. Buchanan III, Esq.
Stites & Harbison PLLC
Suite 1800
SunTrust Center
Nashville, Tennessee 37219

Davidson County DEEDGC
Recvd: 08/02/02 09:31 4pgs
Fees: 22.00 Taxes: 0.00


20020802-0092677

TO: Timothy A. Kelly, individually
Grantee

Address New Owner(s) as follows: Timothy A. Kelly <u>5014 Waple Lane</u> <u>Alexandria, Virginia</u> <u>22304</u>	Name and Address of the Person or Entity Responsible for the Payment of Real Property Taxes Same	Williamson County Map-Parcel Numbers Map 7 Parcel 19.02 and part of Davidson County Map 158 Parcel 34
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STATE OF Tennessee)
COUNTY OF Davidson)

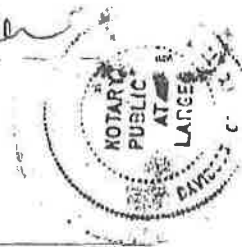
This conveyance is made to implement a testamentary device and is thereby pursuant to the provisions of TCA §67-4-409(a)(3)(D) not subject to the Tennessee Recordation Tax on transfers of realty.


Affiant

Sworn to and subscribed before me, this 1st day of August, 2002.

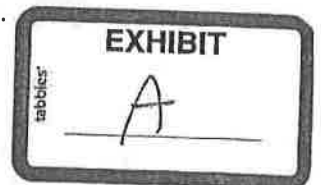

Notary Public

My Commission Expires: 11-27-04



FOR AND IN CONSIDERATION OF the termination of the Thomas A. Kelly testamentary trust, Timothy A. Kelly, Trustee of the Thomas A. Kelly Trust Under the Will of Thomas A. Kelly, (the "Grantor") does quitclaim unto Timothy A. Kelly, individually and not as Trustee (the "Grantee"), his heirs, successors and assigns, all of Grantor's rights, title and interest as trustee in and to a certain tract or parcel of land in Williamson and Davidson Counties, State of Tennessee, more particularly described on Exhibit A attached hereto and incorporated herein by this reference (the "Property").

11262N:011195:470901:3:NASHVILLE
072402



The Property is property known as 8088 Hillsboro Pike, Brentwood, Tennessee 37027.

The Property is conveyed subject to such limitations, restrictions and encumbrances as may affect the Property including.

Witness my hand this 24th day of July, 2002.


Timothy A. Kelly, Trustee of the
Thomas A. Kelly Testamentary Trust

STATE OF Virginia
COUNTY OF Fairfax

Personally appeared before me, KRESHANTHI BASNAYAKE, a Notary Public of said County and State, TIMOTHY A. KELLY, the within named bargainer, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who acknowledged that he executed the within instrument for the purposes therein contained.

Witness my hand and seal, at Office in _____, this 24 day of July, 2002.

K. Basnayake
Notary Public

My Commission Expires: 02/28/2003



EXHIBIT A

Property Description

Land in Williamson and Davidson Counties, Tennessee lying along the eastern side of Hillsboro Pike and immediately north of the Little Harpeth River, being 11.71 acres in area and described on the Boundary Survey of Kelly Property by Theodore J. Stevenson III (Tennessee No. 2136) revised June 28, 2002 (the "Survey") as follows:

Beginning in Williamson County at the point of intersection as shown on said Survey of the eastern right of way of Hillsboro Pike (U.S. Highway 431) and the centerline of the Little Harpeth River;

Thence with the eastern right of way of Hillsboro Pike N 36°20'00" East 7.26 feet to a point;

Thence S 53°41'50" East 14.00 feet to the new eastern right of way of Hillsboro Pike;

Thence with said new right of way N 36°18'09" East 355.85 feet to an iron pin;

Thence with said right of way along a curve to the left having a radius of 7216.53 feet a central angle of 2°55'10"; a length of 367.71 feet and a chord bearing of N 34°50'33" East 367.67 feet to an iron pin;

Thence N 33°22'59" East 10.17 feet to an iron pin at the Williamson /Davidson County line;

Thence with said right of way along a curve having a radius of 13,181.87 feet a length of 87.06 feet to a point being the southwest point of a parcel shown as parcel 34 on Davidson County Tax Map 158 (herein "Tax Parcel 34");

Thence continuing with said right of way around the same curve another 247.26 feet to an iron pin;

Thence leaving the eastern right of way of Hillsboro Pike, S 55°10'34" East 297.21 feet to an iron pin;

Thence N 84°18'01" East 117.98 feet to a point, said point being the northeast corner of the within described tract and the northwest corner of the .97 acre parcel conveyed to Timothy A. Kelly by deed of record in Book 475, page 387, Register's Office for Williamson County, Tennessee (the "Tim Kelly Lot");

Thence with the western boundary of the Tim Kelly Lot and crossing the county line into Williamson County S 07°50'15" West 226.07 feet to a point, being the southwest corner of the Tim Kelly Lot;

Thence along the common boundary of the Congregation Micah property S 49° 51' 23" West 115.61 feet to a point;

Thence continuing with said common boundary along the following bearings and distances:

- a. S 59° 19' 01" West 126.89 feet to a point; thence
- b. S 00° 24' 38" West 85.65 feet to a point; thence
- c. S 00° 04' 58" West 75.91 feet to a point; thence
- d. S 14° 16' 49" East 64.70 feet to a point; thence
- e. S 08° 30' 19" East 47.36 feet to a point; thence

- f. S 34° 56' 44" West 5.89 feet to a point; thence
- g. S 00° 46' 43" East 122.17 feet to a point; thence
- h. S 17° 55' 22" East 100.55 feet to a point; thence
- i. S 12° 09' 38" East 90.96 feet to a point; thence
- j. S 12° 09' 36" East 127.61 feet to a point in the centerline of the Little Harpeth River, said point being the southeast corner of the within described Property;

Thence along the centerline of the Little Harpeth River the following calls and distances:

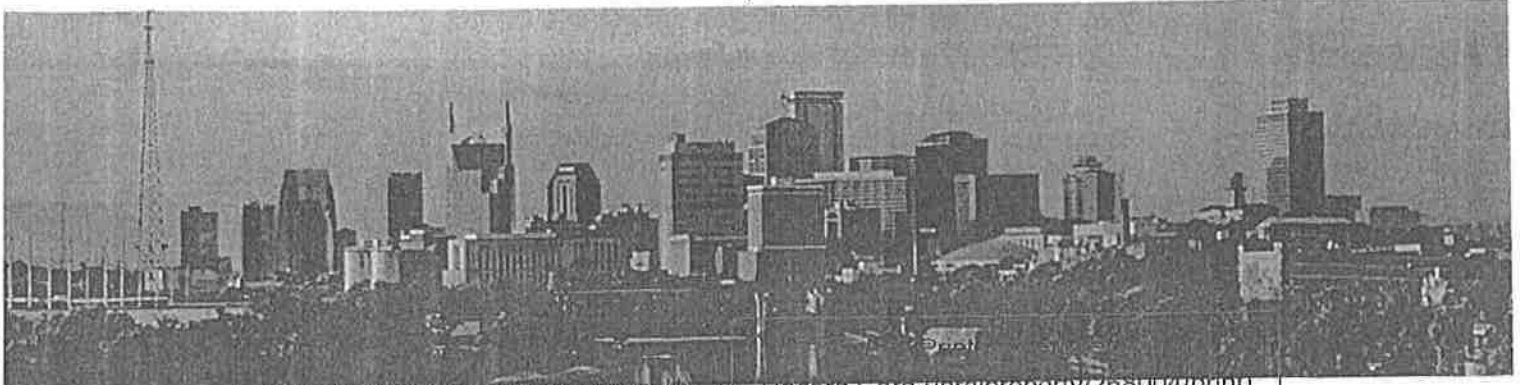
- a. N 75° 03' 39" West 207.93 feet
- b. N 35° 48' 55" West 58.86 feet
- c. N 49° 44' 18" West 73.77 feet
- d. N 19° 54' 57" West 85.81 feet
- e. N 46° 35' 23" West 64.98 feet
- f. N 80° 18' 30" West 51.60 feet
- g. N 83° 16' 06" West 92.99 feet
- h. N 60° 18' 04" West 52.61 feet
- i. N 78° 54' 23" West 188.38 feet
- j. S 70° 38' 33" West 37.30 feet
- k. N 66° 55' 30" West 90.18 feet to the Point of Beginning and containing 12.59 acres.

Being the same property conveyed to Elizabeth L. Kelly and Timothy A. Kelly, Co-Trustees by deed of record in Book 1444, page 793, Register's Office for Williamson County, Tennessee and of record in Book 10194, page 713, Register's Office for Davidson County, Tennessee and being a part of the property conveyed by deed of record in Book 10971, page 194, Register's Office for Davidson County, Tennessee; the said Elizabeth L. Kelly having since died.

THERE IS A CEMETERY LOCATED WITHIN THE ABOVE DESCRIBED PROPERTY



(https://www.padctn.org)



[Page \(/prc/property/268004/card/1\)](/prc/property/268004/card/1)

[Record Card \(/prc/property/268004/print\)](/prc/property/268004/print)

[Building and Improvement Details \(/prc/property/268004/card/1/interior\)](/prc/property/268004/card/1/interior)

[Historical Data \(/prc/property/268004/card/1/historical\)](/prc/property/268004/card/1/historical)

[Review/ Appeal \(/prc/property/268004/card/1/review\)](/prc/property/268004/card/1/review)

[Google/ Bing Maps \(/prc/property/268004/card/1/map\)](/prc/property/268004/card/1/map)

To return to your search results click your browsers back button

GENERAL PROPERTY INFORMATION

Map & Parcel: 158 00 0 137.00

Location: 0 HILLSBORO PIKE

Current Owner: CEMETERY

Card 1 of 1 ▾



[\(/prc/images/nopic.jpg\)](/prc/images/nopic.jpg)

[Click to Enlarge \(/prc/images/nopic.jpg\)](/prc/images/nopic.jpg)



[\(/prc/images/nosketch.jpg\)](/prc/images/nosketch.jpg)



Sketch Details (/prc/property/268004/card/1/interior)

Mailing Address: 3000 GRANNY WHITE PIKE, NASHVILLE, TN 37204

Legal Description: CEMETERY

Tax District: GSD [View Tax Record \(https://nashville-tn.mygovonline.com/mod.php?mod=propertytax&mode=public_lookup\)](https://nashville-tn.mygovonline.com/mod.php?mod=propertytax&mode=public_lookup)

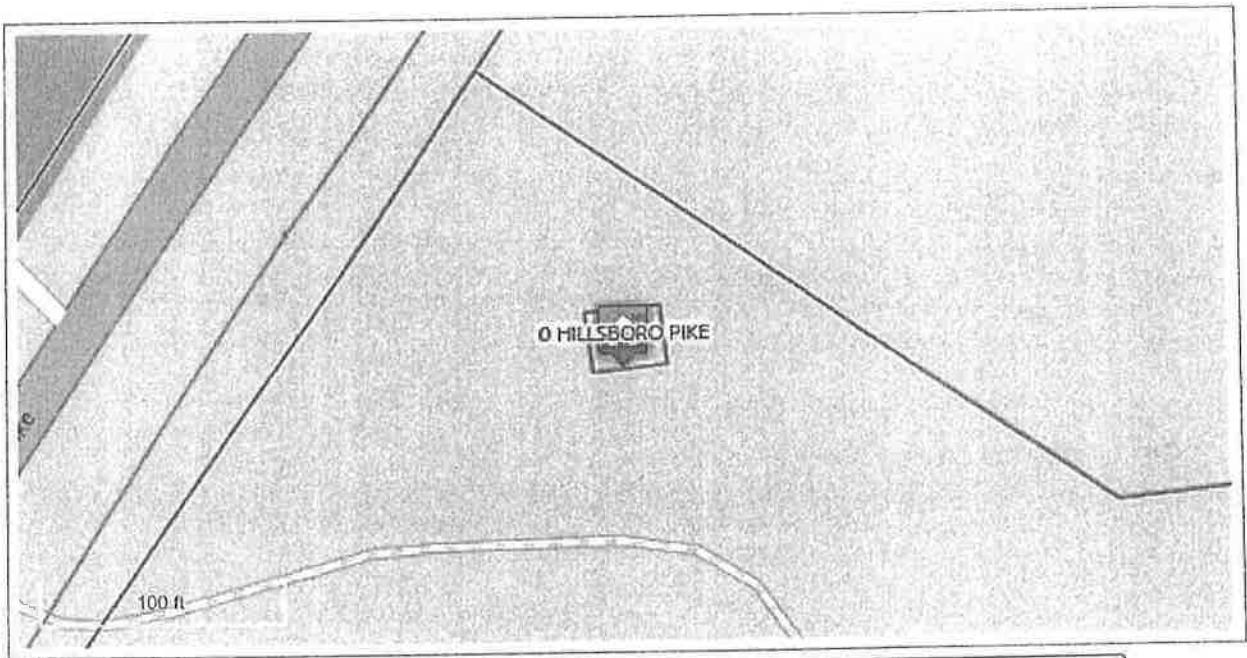
Assessment Classification*: EXE

Legal Reference: 00000000-0000000 [View Deed \(https://www.davidsonportal.com/gis/file.php?book=00000000&page=0000000\)](https://www.davidsonportal.com/gis/file.php?book=00000000&page=0000000)

Sale Date: 01/01/2018

Sale Price: \$0

MAP TOOLS



Comper
Sales Search (<http://davidson-tn-citizen.comper.info/template.aspx?propertyID=15800013700>)

Pictometry
Aerial Photos (<http://community.spatiallest.com/tn/davidson/pictometry.php?y=36.045248&x=-86.863696>)

Metro
Maps (<https://maps.nashville.gov/ParcelViewer/?parcelID=15800013700>)

To view data for another property click in map to select

*This classification is for assessment purposes only and is not a zoning designation, nor does it speak to the legality of the current use of the subject property.

**TOTAL PROPERTY
APPRAISAL / ASSESSMENT**

Improvement Value: \$0

Land Value: \$400

Total Appraisal Value: \$400

Assessed Value: \$0

Property Use: VACANT RESIDENTIAL LAND

Zone: 2

Neighborhood: 6528

Land Area: 0.02 Acres

GENERAL ATTRIBUTES - CARD 1

Property Type:	Number of Rooms: 0
Year Built:	Number of Beds: 0
Square Footage: 0	Number of Baths: 0
Exterior Wall:	Number of Half Bath: 0
Story Height:	Number of Fixtures:
Building Condition:	
Foundation Type:	

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Surrounding Counties (<https://www.padctn.org/general/topic-index-and-links/>)

State Sites (<https://www.padctn.org/general/topic-index-and-links/>)

CONTACT


 E-mail Customer Service (<mailto:assessorweb@nashville.gov>)

Facebook (<https://www.facebook.com/metronashvilleassessorofproperty/>)

Twitter (<https://twitter.com/NSHPropAssessor>)

Main Line: (615) 862-6080 Fax: (615) 862-6057 Open Monday - Friday, 8:00 am- 4:30 pm
(Except Holidays)

Mailing: P.O. Box 196305 Nashville, TN 37219-6305 Physical: 700 2nd Ave S, Suite 210,
Nashville, TN 37210

 For ADA assistance: please contact Kristina Ratcliff at (615) 862-6998.

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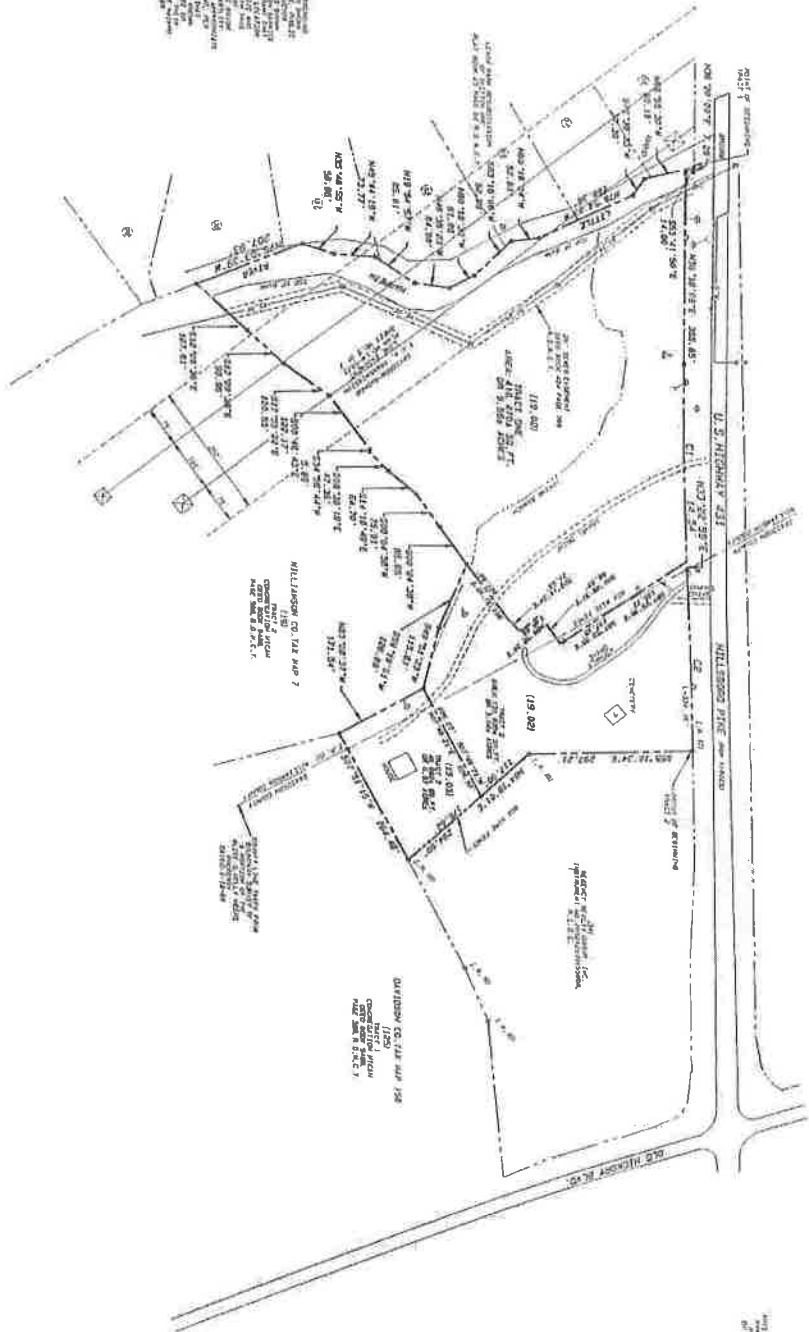
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Visitors to the site



CHAIN TABLE

100	100.00
200	200.00
300	300.00
400	400.00
500	500.00
600	600.00
700	700.00
800	800.00
900	900.00
1000	1000.00



UTILITY NOTE
 ALL UTILITIES SHOWN ON THIS MAP ARE BASED ON RECORDS ON FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE. THE CLERK OF THE CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE, HAS REVIEWED THE RECORDS ON FILE IN HIS OFFICE AND HAS DETERMINED THAT THE UTILITIES SHOWN ON THIS MAP ARE CORRECTLY LOCATED AND SHOWN.

- NOTES:**
1. THE PROPERTY OF THIS EXHIBIT IS A GRANTOR'S INTEREST IN THE TRACT OF LAND DESCRIBED IN THE DEED REFERRED TO IN THE DEED REFERENCE HEREON.
 2. THE PROPERTY OF THIS EXHIBIT IS A GRANTOR'S INTEREST IN THE TRACT OF LAND DESCRIBED IN THE DEED REFERRED TO IN THE DEED REFERENCE HEREON.
 3. THE PROPERTY OF THIS EXHIBIT IS A GRANTOR'S INTEREST IN THE TRACT OF LAND DESCRIBED IN THE DEED REFERRED TO IN THE DEED REFERENCE HEREON.
 4. THE PROPERTY OF THIS EXHIBIT IS A GRANTOR'S INTEREST IN THE TRACT OF LAND DESCRIBED IN THE DEED REFERRED TO IN THE DEED REFERENCE HEREON.

LEGEND

1	GRANTOR'S INTEREST
2	GRANTOR'S INTEREST
3	GRANTOR'S INTEREST
4	GRANTOR'S INTEREST
5	GRANTOR'S INTEREST
6	GRANTOR'S INTEREST
7	GRANTOR'S INTEREST
8	GRANTOR'S INTEREST
9	GRANTOR'S INTEREST
10	GRANTOR'S INTEREST



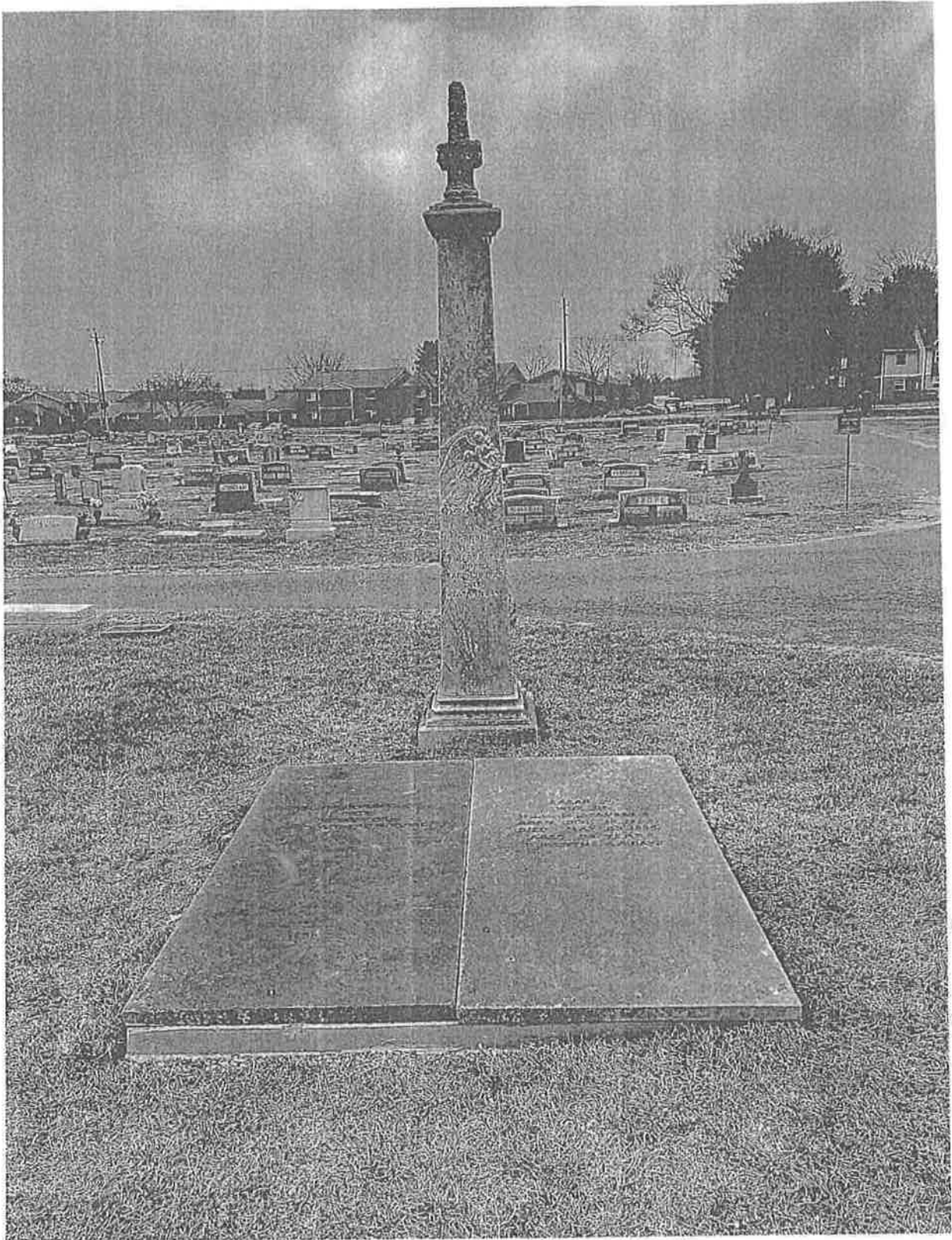
DEED REFERENCE
 DEED REFERENCE TO THE DEED REFERRED TO IN THE DEED REFERENCE HEREON.

PROPERTY MAP REFERENCE
 PROPERTY MAP REFERENCE TO THE DEED REFERRED TO IN THE DEED REFERENCE HEREON.

PROPERTY LINE EXHIBIT
KELLY PROPERTY
 HILLSBORO PIKE
 NASHVILLE, DAVIDSON COUNTY
 THIRTY-THIRD COMMERCIAL DISTRICT
 SEVENTH CIVIL DISTRICT
 TENNESSEE

EXHIBIT
 C

tabbles



tabbies®
EXHIBIT
0



Summary of Scanning to Locate Burials

Prepared For: Tim Kelly

Prepared By:
Russell Grubb
Russell.Grubb@gprsinc.com
Project Manager-Southeast
(615) 946-4430
March 11, 2022



March 11, 2022

Attn: Tim Kelly

Site: 3088 Hillsboro Pike, Brentwood, TN

We appreciate the opportunity to provide this report for our work completed on March 11, 2022.

PURPOSE

The purpose of this project was to search for potential burials within the scan area. The scope of work consisted of two locations measuring approximately (30'x50') and (50'x50'). The area to be scanned was identified by the client, boundary flags were placed, and our markings were then placed onto the surface using spray paint and flags.

EQUIPMENT

- **Underground Scanning GPR Antenna.** GSSI 350 HS Antenna. The antenna with frequencies ranging from 250 MHz-450 MHz is mounted in a stroller frame which rolls over the surface. The surface needs to be reasonably smooth and unobstructed in order to obtain readable scans. Obstructions such as curbs, landscaping, and vegetation will limit the feasibility of GPR. The data is displayed on a screen and marked in the field in real time. The total depth achieved can be as much as 8' or more with this antenna but can vary widely depending on the types of materials being scanned through. Some soil types such as clay may limit maximum depths to 3' or less. As depth increases, targets must be larger in order to be detected and non-metallic targets can be especially difficult to locate. Depths provided should always be treated as estimates as their accuracy can be affected by multiple factors. For more information, please visit: [Link](#)
- **GPS.** This handheld GPS unit offers accuracy down to 4 inches; however, the accuracy will depend on the satellite environment and obstructions and should not be considered to be survey-grade. Features can be collected as points, lines, or areas and then exported into Google Earth or overlaid on a CAD drawing. For more information, please visit: [Link](#)

PROCESS

Initial GPR scans were collected in order to evaluate the data and calibrate the equipment. Based on these findings, a scanning strategy is formed, consisting of scanning the entire area in an X, Y, grid with one-foot scan spacing in order to locate any potential burials that may remain at the site. The GPR data is viewed in real time and anomalies in the data were located and marked on the surface along with their depths using spray paint and flags. Relevant scan examples were saved and will be provided in this report.

LIMITATIONS

Please keep in mind that there are limitations to any subsurface investigation. The equipment may not achieve maximum effectiveness due to soil conditions, above ground obstructions, reinforced concrete, and a variety of other factors. No subsurface investigation or equipment can provide a complete image of what lies below. Our results should always be used in conjunction with as many methods as possible including consulting existing plans and drawings, exploratory excavation or potholing, visual inspection of above ground features, and utilization of services such as One Call/811.


Ground Penetrating Radar (GPR) is the only viable non-destructive method for detection graves 200 years or older. In cases of these legacy graves where caskets may no longer exist, leading indicators such as disturbed soil, subsurface trenching of soil, small voids, and changes in material in the soil. Multiple passes are made to determine if a rectangular pattern of leading indicators exist sub surface.

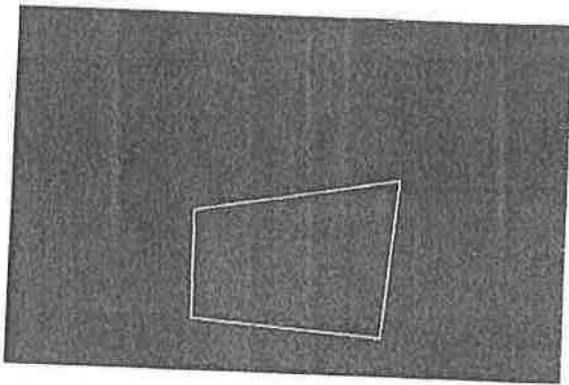
The ability of GPR to find burials depends on a variety of factors including, but not limited to, the type of containment, material of containment, depth of burial, conductivity of soil, age and decomposition of burial. We cannot guarantee that all burials will be detected, and false positives may have been encountered and marked. Customer removed tall vegetation in the areas prior to scanning.

FINDINGS

The subsurface conditions at the time of the scanning allowed for maximum GPR depth penetration of six feet in most areas. A water line was observed in area "A" during the scanning, it is notated in picture 6 with a blue arrow. The equipment and methods used did not detect reactions from potential burials. Any reaction that was indicative to a potential burial was flagged for further investigation to see if the reaction repeated to form the shape of a burial. Certain reactions encountered were a foot or less in diameter and are not consistent with burials. In Area "B" multiple potential targets were flagged but were determined to be the remaining root system of the removed tree. As there were no reactions that would indicate any burials on site only four perpendicular radar data images were documented per area. The following pages will provide further explanation of the findings.



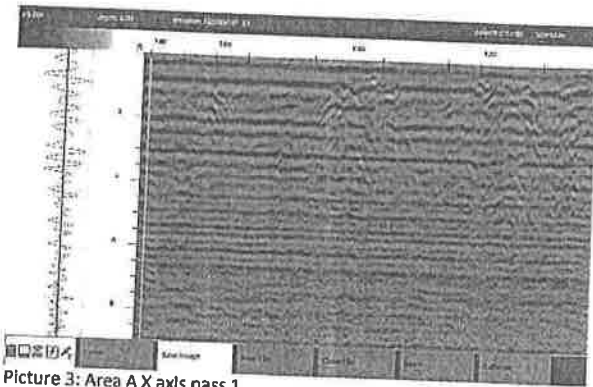
Prepared for: Tim Kelly Prepared By: Russell Grubb Date of Scanning: 3/11/2022	Terms and Conditions GPRS does not provide land survey or civil engineering data collection or documentation. This is provided as a reference map of the field markings and is not survey-grade.	LEGEND <table border="1"> <tr> <td>ELECTRIC</td> <td>SANITARY</td> </tr> <tr> <td>WATER</td> <td>STORM</td> </tr> <tr> <td>COMM</td> <td>UNKNOWN</td> </tr> <tr> <td>GAS</td> <td></td> </tr> </table>	ELECTRIC	SANITARY	WATER	STORM	COMM	UNKNOWN	GAS		3088 Hillsboro Pike, Brentwood, TN	Prepared by: 
ELECTRIC	SANITARY											
WATER	STORM											
COMM	UNKNOWN											
GAS												



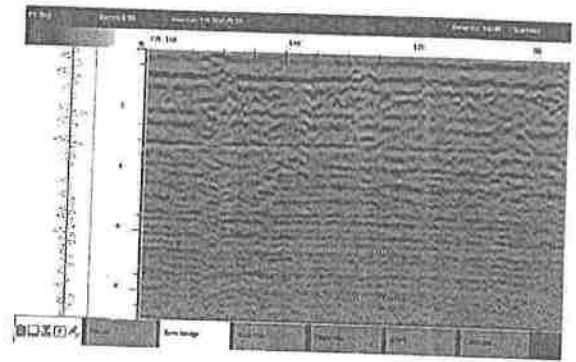
Picture 1: Area A map



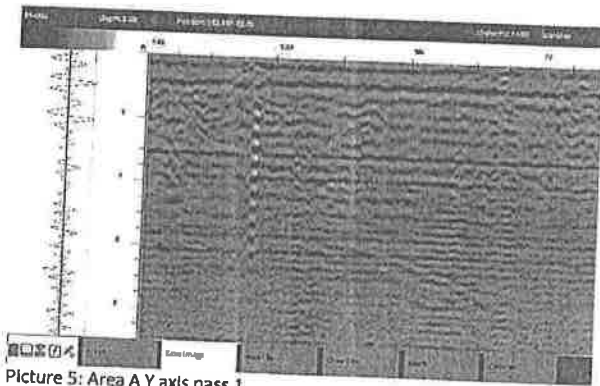
Picture 2: Area A



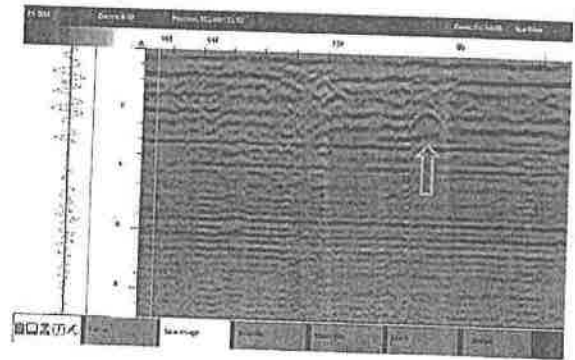
Picture 3: Area A X axis pass 1



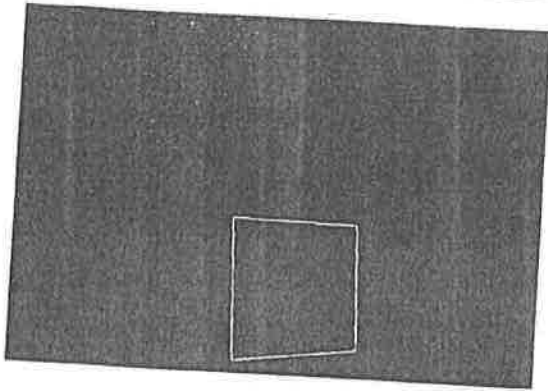
Picture 4: Area A X axis pass 2



Picture 5: Area A Y axis pass 1



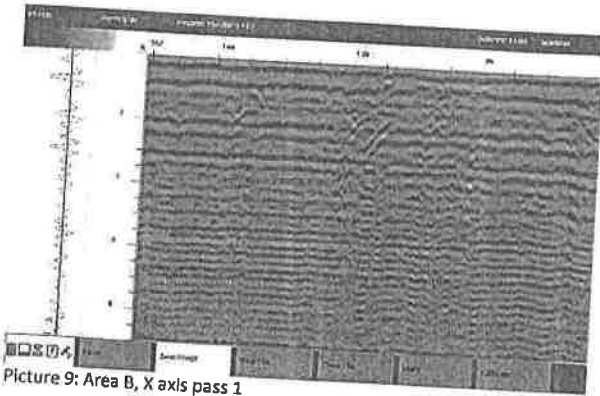
Picture 6: Area A Y axis pass 2



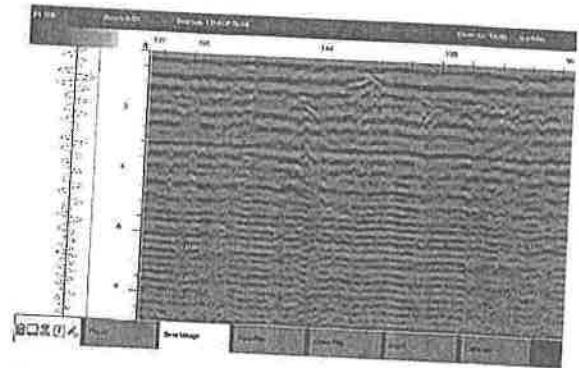
Picture 7: Area B map



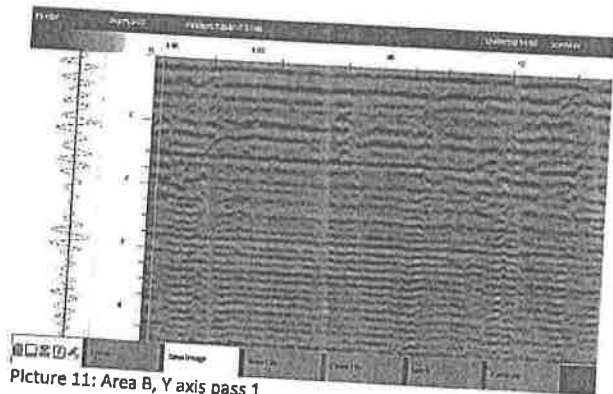
Picture 8: Area B site photo



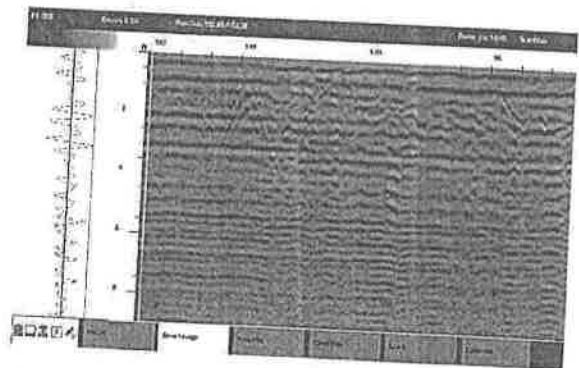
Picture 9: Area B, X axis pass 1



Picture 10: Area B, X axis pass 2



Picture 11: Area B, Y axis pass 1



Picture 12: Area B, Y axis pass 2

GPR Data Screenshots and Photos

3088 Hillsboro Pike, Brentwood, TN



CLOSING

GPRS, Inc. has been in business since 2001, specializing in underground storage tank location, concrete scanning, utility locating, and shallow void detection for projects throughout the United States. I encourage you to visit our website (www.gprsinc.com) and contact any of the numerous references listed.

It should be noted that some subsurface anomalies may have not been located due to soil conditions, ground covering, etc. Additionally, due to some varying soil conditions present in the area, some false-positive readings are likely to have been encountered. Given these limitations, it is our standard practice to mark out all potential anomalies and reactions when found and where present. GPRS's standard procedure is to over-mark an area to ensure the highest levels of safety and to limit potential shutdown or service interruptions. Additional exploration measures may be required in order to confirm or deny the presence of these anomalies and reactions (i.e. probing, limited excavations, daylighting, etc.).

To Summarize, no leading indicators of a burial were identified in either of the two areas of concern.

GPRS appreciates the opportunity to offer our services, and we look forward to continuing to work with you on future projects. Please feel free to contact us for additional information or with any questions you may have regarding this report.

Signed,



Russell Grubb
Project Manager—Southeast



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Reviewed,



Casey Barefield
Area Manager—Southeast



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SITE REPORT- SCRUGGS CEMETERY, DAVIDSON COUNTY, TN
Parcel Numbers: 158 00 0 034.00, 158 00 0 137.00, & 007 01902 (Williamson)

On March 4 and March 7, 2022, Graham Perry, Historic Cemetery Preservation Specialist from the Tennessee Historical Commission, drove from THC Headquarters in Donelson, TN, to the site of the Scruggs Family Cemetery located at 3088 Hillsboro Rd., Nashville, Tennessee. The cemetery access was via driveway to leading to an historic family home located in Davidson County. On the two dates, Perry met with several interested parties including the owner of the properties Mr. Timothy Kelly, 2 family members including Mr. William Kelly and a cousin, Realtor Mr. Loy Hardcastle, family member Ms. Carolyn B. Worthy, and GPR survey technician Russell Grubb from the company GPRS. THC's involvement in this case began when contacted via a lengthy email on February 17, 2022 by Virginia Watson, a distant cousin of those interred in the Scruggs Cemetery. The existing cemetery (**Parcel 158 00 0 137.00**) is located within the boundaries of the homesite parcel (**Parcel 158 00 0 034.00**) owned by Mr. Tim Kelley a short distance north of the driveway leading to the homestead. A third parcel adjoining the latter but also owned by Kelly is located in Williamson County (**Parcel 007 01902**).

PURPOSE OF VISITS

Mr. William Kelly (a cousin of the landowner), whose ancestor had once owned the property in question and an interested party concerned about the fate of the known cemetery since the land area that included it was listed for sale by the landowner. At the time, Loy Hardcastle of Parks Realty was the current real estate agent representing the landowner. As a result of concerns expressed particularly by Mr. William Kelly to THC, Graham Perry investigated the claims. The claims made were that three monuments marking suspected graves and the cemetery were moved by the landowner and relocated and that the landowner's intent was to list the cemetery tract along with the other two for commercial sale.

If the plaintiff's claims proved true, several state statutes would be and might have already been violated by said landowner.

In the weeks prior to the first site visit, THC discussed the issue with both parties via email. Complicating matters, there was said to be an historic "Slave Cemetery" cemetery on the homestead parcel as well, and since the homestead lot bordered a well-researched pre-Columbian archeological site, it was likely that the site bled over onto the properties in question. THC contacted Ben Nance at the Tennessee Department of Archeology who confirmed the likelihood of this potential fact.

During the process of discussions, THC was contacted by Ms. Carolyn B. Worthy, who further claimed that her ancestor was known to be buried in the so-called "Slave Cemetery" located on the property.





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Under the statutes codified in *Tennessee Code Annotated 46-8 Family Burial Grounds Protection (1996)* and the precedents set by *Walter Hines v. State of Tennessee (1911)*--precedents which are nationally recognized--it is unlawful to violate the sanctity, physical boundaries, and other attributes of a known family burial ground except by way of a successful relocation petition process as codified in TCA 46-4, a process which includes the Tennessee Historical Commission. Thus, the purpose of this visit was to draw definitive conclusions about what was or was not actually occurring at the properties in question. In addition, it was hoped that the location for the so-called "Slave Cemetery" might be discovered.

FINDINGS

The Tennessee Historical Commission's Historic Preservation Specialist, Graham Perry, conducted extensive research regarding the history of both cemeteries. Death certificates for individuals said to be buried there were retrieved, but the most helpful information by far was gathered from pages 3 and 4 from the 1981 book *Tombstone Inscriptions of Davidson County Volume II*, by Richard Carlton Fulcher.

At the time of publication, Fulcher's book declared that there were 2 cemeteries and even provided hand drawn maps of each site. One was a family containing 6 graves located "in a small clump of trees about 125 feet from Hwy. 431 at a point about 800 feet southwest of the intersection with Old Hickory Blvd. on the property of Thomas W. Kelly," presumably a family member associated with both Tim and William Kelly.¹ The second is called "Slave Cemetery" consisting of at least 1 grave and was said to be located "adjacent the north side of the driveway. . . in the second bend in the driveway, which exits on U. S. Highway 431 at a point about 2/10 southwest of its intersection with Old Hickory Blvd. near the Williamson County line (on the east side of the highway)." Furthermore, "Mr. Thomas Kelly pointed out . . . the location of the cemetery which borders his driveway and to a stone which was in the east corner of a rockwall around the cemetery." Unfortunately, because no GPS coordinates were recorded for either site, the "Slave Cemetery's location has been lost to time and the exact location of the Scruggs Cemetery was relegated to existing property maps (Exhibit C).²

"Slave Cemetery"

The search for the so-called "Slave Cemetery" culminated in an initial visit by Perry on March 4. Prior to that date, Perry consulted Ancestry.com and located the death certificate for Ms. Worthy's ancestor, Egbert Bright (1849-1922), who was indeed buried in "Franklin," a generic term pertaining to the area around the town that could have included the property in question. This meant that that Mr. Bright may or may not actually have been buried on the property. Mr. Egbert's grave information from Find-a-Grave posited that he was buried at the so-called "William Scruggs Slave Cemetery." The GPS coordinates for this cemetery were listed as 36.0438229, -

¹ Richard Carlton Fulcher, *Tombstone Inscriptions of Davidson County* (v.2, Revised Edition). Brentwood: Heritage House Publishers. 1981., 3.

² *Ibid.*, 3-4



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86.8650823. This location was on **Parcel 007 01902**, located in Williamson County, some ways from the homestead driveway (**Exhibit C**).

To check the accuracy of the coordinates, Perry visited the property on March 4, 2022 with realtor Loy Hardcastle, the realtor representing the landowner. Perry first contacted the realtor to make sure that it was disclosed by the landowner that there was at least one cemetery on the property, which is required by state law (**TCA 62-13-403**). Mr. Hardcastle confirmed that the existence of the Scruggs Cemetery was disclosed in the listing.

The primary purpose of Perry's visit on this date was to check the accuracy of the GPS coordinates provided by Find-a-Grave. The coordinates pointed to the center of a creek bed. There was a good deal of vinca minor--often present at historic cemeteries--growing on both sides of the creek and along the banks for a great distance. Being that vinca is an invasive plant, it was not unique that the patch was not confined to a particular area. Perry probed both sides of the creek in a wide area around the coordinates and found no indication of any burials. Perry also noted that the area in question was located in the flood plain, and although historically African Americans have not had access to prime real estate, it seemed unlikely that the flood plain would have contained an historic cemetery of any kind. Thus, Perry determined that this GPS coordinates were not accurate and that Ms. Worthy should be present at the following site visit to posit according to memory the location of the cemetery.

Scruggs Cemetery

On March 7, 2022, Perry met with all parties identified in the introduction with the except of Mr. Hardcastle. The primary purpose of this visit was to discuss previous GPR findings by GPRS, matters regarding the past removal of the monuments by the surrounding landowner, and hopefully to gain further knowledge about the possible location of the so-called "slave cemetery."

The suspected Scruggs Cemetery parcel had been cleared of any vegetation including what was described as a large cedar tree which Tim Kelly noted had been damaged and thus was removed from the site. Evidence of where the tree had stood was in full view, and there was no other evidence of it except for a flat area with shavings where it appeared a stump grinder had been used. Occasionally nondescript limestone rocks were also scattered about the area. The location, identified as a distinct separate tax-exempt parcel with no declared owner according to Metro Nashville property records, seemed to line up with that record and perhaps also with USGS historical topographic maps, although they were not as precise (**Exhibit A, B**). The information provided by Metro meant that legally the cemetery owners were the family members themselves, of which Mr. Tim Kelly was one. However, it also means that other surviving family members are equal owners of the cemetery (*Walter Hines v. Tennessee* (1911)).



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Tim Kelly was informed by Perry that the cemetery could not be sold as part of the acreage without approval by the other family members, who would be entitled to share in any proceeds generated by the sale of the cemetery acreage. In addition, the cemetery would have to be declassified as a cemetery most likely through the relocation process stipulated by Tennessee law (TCA 46-4).

The issue of the markers that had already been relocated by the landowner to a different cemetery created a unique situation. Technically Tim Kelly as a descendant is not directly forbidden by law to remove the grave markers of his ancestors nor the tree damaged in the storm. While this removal would normally be seen as desecration as defined by Tennessee law punishable as a **Class E Felony**, since Mr. Kelly is also a family member, it is possible that his removal of the markers could be viewed as *maintenance* which is permitted by law. According to existing state law, all markers and graves in a cemetery belong to all family members even if the cemetery itself is owned by another party, and the matter would have to be determined in civil court were family members willing to take such an action. (TCA 39-17-312, TCA 46-2-105, **Walter Hines v. State 149 SW 1058-1060 (1911)**).

Problematically in this case however, no graves supposedly marked by the monuments were relocated, and even if there were no burials, the removal of markers alone does not remove the plot's cemetery status (**Walter Hines v. State 149 SW 1058-1060 (1911)**).

The question regarding the existence of graves in the Scruggs Cemetery (and the property in general) arose sometime prior to THC's involvement. Because there was disagreement between family members about whether or not there were actually any graves inside the Scruggs Cemetery parcel, the landowner hired the company GPRS, who sent specialist Russell Grubb to use ground penetrating radar (GPR) to examine 4 disputed areas on the Kelly properties including the Scruggs Cemetery Parcel to determine whether each area contained any kind of burials. The landowner sent a copy of the first GPRS report to THC. It posited that there were no identified graves in any of 4 areas surveyed (**Exhibit G2**). Having reviewed many GPR reports, Perry determined that the report was not complete and did not resemble the detailed reports usually tendered to the THC office. Specifically, the report only detailed what was to be done and the "final result" with no supporting data. Perry informed the landowner that THC could not support the findings of the GPRS survey if ever summoned to a court of law.

On March 7, the interested parties met on the landowner's property to discuss what needed to transpire. Perry discussed the existing report with Russell Grubb, the GPRS representative that had conducted the first GPR survey. Mr. Russell explained to Perry that an official report like the one THC needed to support the findings would cost extra and that the landowner had declined to have it done. Moreover, Mr. Russell claimed that the GPR data from the original survey had not been saved and that a second GPR survey would have to be conducted to regather the data. It was determined at that time that Mr. Russell would reconduct the survey presumably at the expense of the landowner and that a more detailed report could be crafted. It was also determined by the group that only two of the original 4 areas really needed to be surveyed. One was the existing cemetery plat.



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The second area was just south of the driveway and was believed to contain the remains of Egbert Bright. Ms. Worthy recalled visiting her ancestor's grave, and although the landscape did not look the same as she remembered, she thought that believed this area was likely. Notably, there were two small areas within the survey boundary of vinca growth. The original survey had not been conducted in these areas because the vegetation was prohibitive. Upon closer look, the most prohibitive area contained a pile of what may or may not have been field stone markers. It was suggested then by Perry that when that area was resurveyed that the prohibitive growth should be minimized to allow a access by GPR.

THC received a draft report of the second survey from GPRS on March 15, 2022. Perry consulted with Ben Nance at the Tennessee Department of Archeology for the department's professional opinion, since Perry has only limited knowledge regarding GPR interpretation. Mr. Nance advised that although there were some minor aspects he would have liked to have seen in the report, the report contained what it needed to show that there were no reliable signs of burials in the 2 areas surveyed. This may corroborate the claim that the originally markers located on the Scruggs Cemetery plat were perhaps memorials rather than graves and that the actual cemetery may have been nearby but not within the current cemetery plat boundaries.

As far as the so-called "Slave Cemetery," no reliable evidence was found for graves in the suspected area in which the second GPR survey was completed, even in the newly surveyed sub sections. The findings do not mean that there is not a second cemetery on the property but simply that it cannot currently be located. The fact that both cemeteries are entered with credible detail in Fulcher's book, most likely indicates that burials indeed exist on the property, but the whereabouts have still not been verified.

CONCLUSIONS

After consulting with the Department of Archeology, the Tennessee Historical Commission's Cemetery preservation specialist Graham Perry supports the findings as presented in the second report issued by GPRS tendered to this office in rough draft form (GPRS report available upon request). This does not mean however that the Scruggs Cemetery does not exist on the property elsewhere as tax maps are notoriously inaccurate and it is acknowledged by several sources to exist. Had markers and the tree remained at the site prior to THC's involvement, additional clarity would have been likely.

Fulcher's book indicates that at least as late as 1981 there were two cemeteries on or near the properties in question. Location descriptions seem to put the Scruggs Cemetery on the North side of the main driveway somewhere and the so-called slave cemetery on the south side. In addition, historic USGS topographic maps and Metropolitan Davidson County records indicate that that the Scruggs Cemetery--whether it contained any burials or not--in fact existed in the



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vicinity (**Exhibits A, B**). Since Fulcher's book was published, there is no clear indication of how the landscape around the main driveway may have changed. After 40 years, changes to the landscape could have easily affected the accuracy of current memory.

Clearly, the GPS information provided for the so-called "slave cemetery" in the Find-a-Grave entry is incorrect, since it points to the center of a stream running through a low flood plain on the Williamson County parcel. In addition, that location does not correlate with the description found in Fulcher's book. In addition, the slave cemetery layout as shown in the book shows only one grave – most likely the grave of Egbert Bright, who was born at a time when he was likely enslaved. Although there may easily have been other burials in this cemetery, the existence of Bright's burial alone may have been the reason it was commonly known as the "slave cemetery."

On the other hand, there appear to have been at least at one time 6 potential grave markers in the location of the Scruggs Cemetery, whether or not it was in its currently designated location or another location on the property. One marker in Fulcher's book (Rachel Waldron 1824-1851) was very likely a memorial marker and did not necessarily mark an actual grave. One other was a "rock" which may or may not have marked a burial. One was noted as an unmarked "footstone." The remainder were two box tombs reportedly marking the remains of William and Sarah W. Scruggs and a tall spire near which it is assumed was the grave of Sarah Scruggs (**Exhibit C**).

Unfortunately, the so-called "box tombs" had been relocated by the landowner prior to THC's involvement in this project and remain today as mere "slabs." In addition, no photo evidence was provided to THC of where they were originally placed and what they looked like prior to the move (**Exhibits D, E**).

Historically, remains were not enclosed inside what are traditionally called "box tombs." Rather, the tomb would generally mark the area of the actual burial which would have been several feet beneath the ground. Furthermore, the top slabs associated with the so-called "box tombs" were moved, but the expected sides of the tombs--if there ever were any--were not relocated and are missing. The "box-tombs" as they lie currently are not "box-tombs" but instead "slabs."

If they were actual "box tombs," it remains unknown if the lack of remains "inside" them may have provided the false perception that no graves were present, when likely they were prior to removal. In this case, if indeed the "box tombs" were originally located inside the Scruggs Cemetery parcel, then the GPR survey appears inconclusive that any graves were present. In addition, "box-tomb" may not have been the proper term for what they were originally—they may have simply been slabs. No photo evidence that they were what are traditionally called "box tombs" is present.



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In addition, knowing the age of the remaining slabs that were removed may or may not lend credence to the idea that graves ever existed underneath them. These particular ones appear as if they were made and placed later than the time of the burials. Simply put, they may not have been placed over the actual graves (**Exhibit D**).

RECOMMENDATIONS TO LANDOWNER

1. Being that there is at least one defined cemetery, the Scruggs Family Cemetery, located on its own plat inside one of the parcels being sold by the landowner, the cemetery must be acknowledged by law on the deed prior to any land transaction if it isn't so already (**TCA 46-8-103a**).
2. The landowner should fully disclose the fact of the existence of the cemetery to all potential buyer(s) (**TCA 62-13-403**). In addition, the landowner should not sell the cemetery plat itself as part of the parcel without either petitioning the court for declassification of the cemetery or gaining approval by remaining family members. If the plat is sold as part of the parcel after such approval, proceeds should be divided equally between the landowner (who is also a descendant) and other affected family members.
3. The landowner is highly advised to disclose to any potential buyer of the possibility that there are no burials in the currently marked cemetery plat and that the possibility exists the related graves may be elsewhere on the property.
4. The landowner is highly advised to disclose that there **MAY** exist another so-called "Slave Cemetery" somewhere on the property that contains at least 1 grave, but that the location of this cemetery is not currently known.
5. The landowner is also highly advised to disclose to any future buyer(s) the property borders a known archeological site.
6. The landowner has the right to petition the court for declassification of the Scruggs Cemetery Parcel understanding that the remaining family members have the right to contest this petition if so brought (**TCA 46-4**).
7. Since the landowner apparently did not consult other family members prior to the relocation of the original markers without first proving or disproving the existence of graves, the landowner is notified by this office that opposing family members have the right to legally challenge that relocation if they so desire (**TCA 46-2-105**).
8. It is highly advised that the landowner include remaining family members in any future decisions regarding the Scruggs Cemetery parcel.
9. Any development, whether by the landowner or landowner's representatives or by a company representing a future buyer, should be done with due diligence and care as already required by state law. As with any development in Tennessee, certain laws apply to the discovery of human remains. If human remains are disturbed during construction, a developer is required to stop construction immediately, contact the local police, health department and Tennessee Department of Archeology (**TCA 11-6-107d**). Any grave marker discovered during construction they must be left in-situ, standing or otherwise and no further disturbance is allowed to occur within 10 feet (**TCA 46-8-103b**). It would be highly advised at that time to call the Tennessee Historical



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Commission or the Department of Archeology. A 10 foot buffer must also be left around the boundaries of the currently existing Scruggs Cemetery plat in perpetuity until such time that it is declassified as such in a court of law (TCA 46-8-103b, TCA 46-4).

For Further Information, please contact:

G. Graham Perry III, ABD | Historic Preservation Specialist-Cemeteries
 Tennessee Historical Commission
 State Historic Preservation Office
 2941 Lebanon Pike, Nashville, TN 37214
 p. 615-532-0087
graham.perry@tn.gov
tnhistoricalcommission.org

EXHIBIT A

Parcel: 158 00 0 137.00 – Scruggs Cemetery 70-Tax-Exempt Plat located inside 158 00 0 034.00 from Metro Nashville Maps

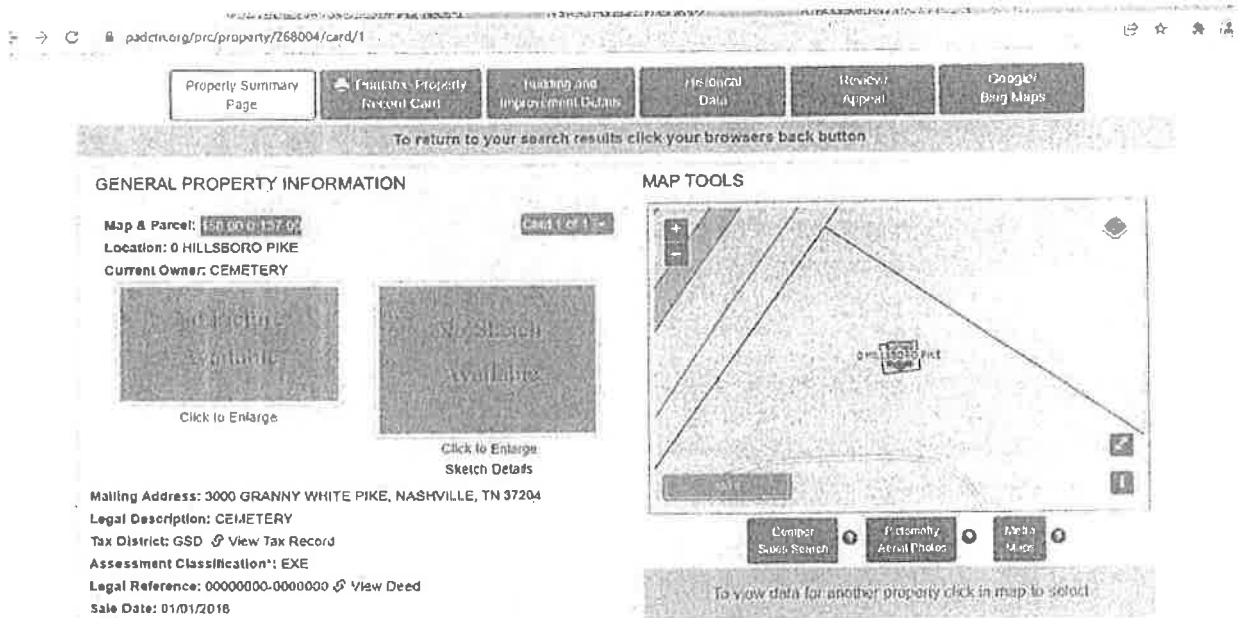


EXHIBIT B

1953 USGS Historical Topo Map showing Scruggs Cemetery



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EXHIBIT C

Snips from PP 3-4 from Fulcher book with rudimentary descriptions and maps.

SCROGGS CEMETERY

Location: Oak Hill, Tennessee U. S. Geological Survey Quadrangle Map 2508 SE. The cemetery is located in a small clump of trees about 125 feet east of U. S. Highway 431 at a point about 800 feet southeast of its intersection with Old Hickory Blvd. near the Williamson County line and on the property of Mr. Thomas A. Kelly.

Comments: The cemetery is not enclosed in a fence and is grown up in weeds and a few briars. Recorded by Richard G. Fulcher and Thomas A. Kelly in March 1981.

See PLAT of cemetery for approximate location of markers.

- 1) SCROGGS, William, Sr. "WILLIAM SCROGGS, Sr./Died/Dec. 9, 1859/ Aged about 75 years." (Box tomb)
- 2) SCROGGS, Sarah W. "SARAH W./Wife of/WILLIAM SCROGGS, Sr./Born Dec. 16, 1798/Died May 20, 1856/Age 56 years/ 2 months & 4 days." (Box tomb)
- 3) SCROGGS, Sarah "SARAH/Wife of/M. SCROGGS, Jr./Born/March 10, 1824/Died/May 31, 1869." (Tall stone with top broken off)
- 4) WALDRON, Rachel "In/Memory/of/Mrs. RACHEL (IT) WALDRON/Born October 26th/1824/Died May 26th/1891."
- 5) Rock which may be a marker without inscription.
- 6) Footstone without inscription.

PLAT of SCROGGS CEMETERY

PLAT of SLAVE CEMETERY



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SLAVE CEMETERY

Location: Oak Hill, Tennessee U. S. Geological Survey Quadrangle Map #206 SE. The cemetery is located adjacent the south side of the driveway to the Thomas A. Kelly home, in the second bend of the driveway, which exits on U. S. Highway 431 at a point about 2/10 southwest of its intersection with Old Hickory Blvd. near the Williamson County line (on the east side of the highway).

Comments: Mr. Thomas A. Kelly pointed out to this author the location of the cemetery which borders his driveway and to a stone which was the west corner of a rockwall around the cemetery. Recorded by Richard C. Falcher in April 1981. See PLAT of cemetery on preceding page.

41) BRIGHT, ROBERT — According to Mr. Thomas A. Kelly, Robert Bright, who was born in a cabin on the old farm or plantation, was buried in this graveyard along with other members of his family. His grandson, Alex Bright, Jr. resides, presently, on Carter's Creek Pike in Franklin, Williamson County, Tennessee. He is the son of the late Alex Bright, Sr. and Beanie Smith Bright.



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EXHIBIT D

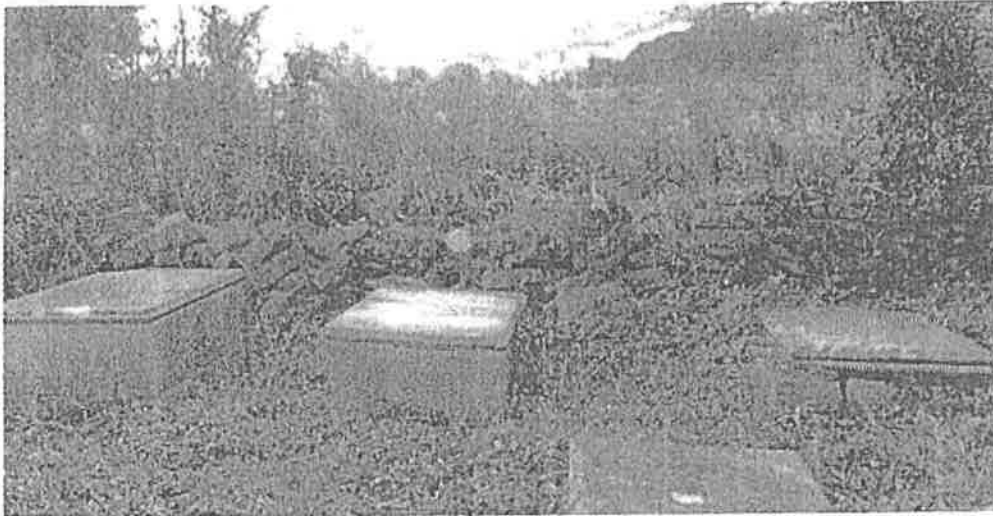
Photo image of recent placement by landowner of original markers in new location.





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EXHIBIT E

Traditional Box Tombs located in Trousdale County



https://www.lebanondemocrat.com/hartsville/looking-back-identifying-the-oldest-graves-in-trousdale-county/article_7e00bc25-e161-52fe-8a10-fb5bb0032541.html

EXHIBIT F

Egbert Bright Death Certificate

STATE OF TENNESSEE STATE BOARD OF HEALTH Bureau of Vital Statistics CERTIFICATE OF DEATH	
1 PLACE OF DEATH County <u>Williamson</u> City, Town, or Village <u>Beechville</u> City <u>_____</u> State <u>Tenn.</u>	
2 FULL NAME <u>Egbert Bright</u>	
3 SEX <u>Male</u> AGE <u>75</u> YEARS	
4 OCCUPATION <u>Farmer</u>	
5 MARITAL STATUS <u>Married</u>	
6 DATE OF BIRTH <u>1874</u>	
7 DATE OF DEATH <u>1949</u>	
8 CAUSE OF DEATH <u>Complications</u>	
9 SIGNATURE OF PHYSICIAN <u>[Signature]</u>	
10 SIGNATURE OF DEATH REGISTRAR <u>[Signature]</u>	
11 SIGNATURE OF WITNESSES <u>[Signatures]</u>	
12 SIGNATURE OF CORONER <u>[Signature]</u>	
13 SIGNATURE OF MINISTER OF THE GOSPEL <u>[Signature]</u>	
14 SIGNATURE OF JURY <u>[Signatures]</u>	
15 SIGNATURE OF JURY <u>[Signatures]</u>	
16 SIGNATURE OF JURY <u>[Signatures]</u>	
17 SIGNATURE OF JURY <u>[Signatures]</u>	
18 SIGNATURE OF JURY <u>[Signatures]</u>	
19 SIGNATURE OF JURY <u>[Signatures]</u>	
20 SIGNATURE OF JURY <u>[Signatures]</u>	
21 SIGNATURE OF JURY <u>[Signatures]</u>	
22 SIGNATURE OF JURY <u>[Signatures]</u>	
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24 SIGNATURE OF JURY <u>[Signatures]</u>	
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29 SIGNATURE OF JURY <u>[Signatures]</u>	
30 SIGNATURE OF JURY <u>[Signatures]</u>	



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EXHIBIT G1**

Recent Survey Showing Scruggs Cemetery Location

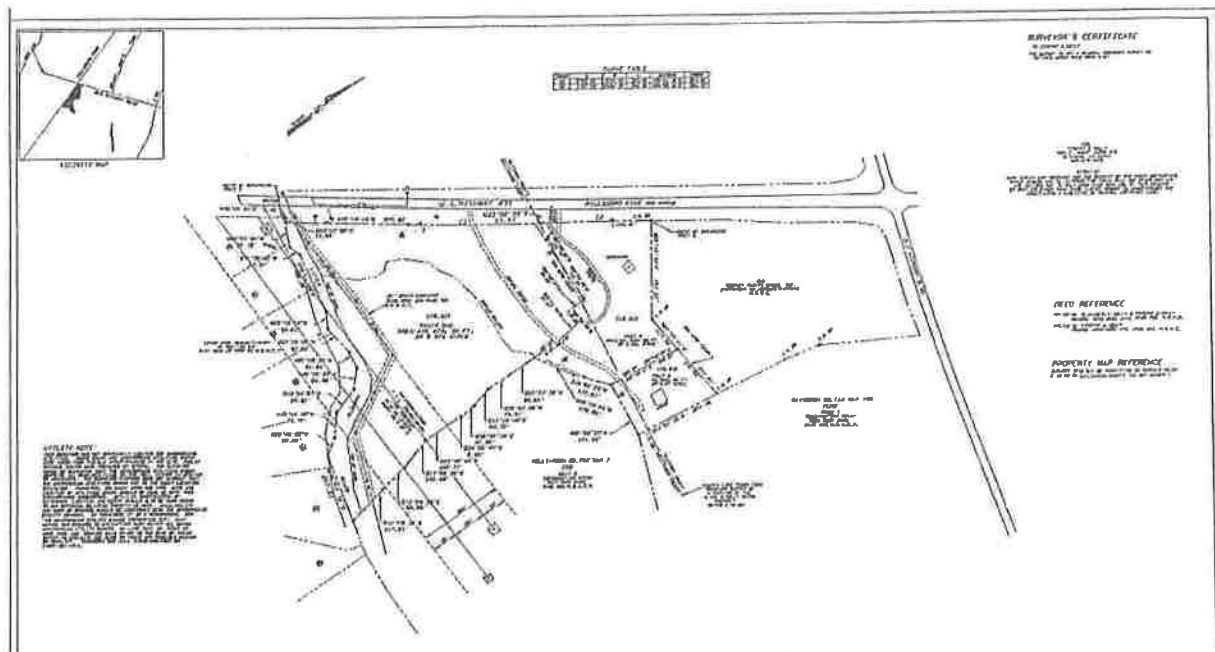


EXHIBIT G2

Map area showing 4 originally surveyed areas. Note 1 & 2 were apparently resurveyed after March 7, 2022 by GPRS





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EXHIBIT H**

Area near GPS location as listed on Find a Grave – A wide area of vinca in low land





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EXHIBIT I**

Supposed "Slave Cemetery" area (Area B), Part not examined during initial GPR Survey, but examined in the second survey after undergrowth cut back. Note: Vinca and stones present.

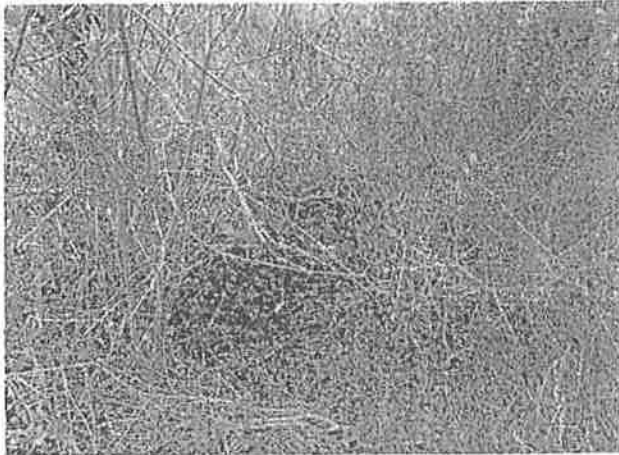


EXHIBIT J

Current Scruggs Cemetery plat. Note: No markers or damaged cedar tree present. These were removed apparently prior to notification of family member William Kelly by landowner.





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**Report Completion Date: 3-25-2022, 7:00 AM
Graham Perry – Historic Cemetery Preservation Specialist
State Historic Preservation Office
2941 Lebanon Pk.
Nashville, TN 37214
Phone: 615-532-0087; email graham.perry@tn.gov**