



## PROJECT ENGINEER'S REPORT

Project 6338

**Date:** February 5, 2018

**TO:** Mr. Pat O'Brien, Director  
Town of Luray Parks and Recreation Department  
45 East Main Street  
Luray, Virginia 22835

**From:** Patrick B. Racey, PE- President & Principal  
Racey Engineering, PLLC

**Proj. Ref./ Title:** [6338] / Luray Greenway Foundation- "Former" Third Avenue Corridor-  
Title and Property Research

**Subject:** Project Engineer's Submittal of Documents

Racey Engineering, PLLC, as Project Engineer, entered into an October 9, 2017 contract agreement with Reed and Reed, PC of Luray to obtain Title Research of source and ownership of the ["mapped" Third Avenue Corridor].

The "mapped" corridor idealistically once traversed along the south limits of the Town Limits along and adjoining lands now owned by Clark Family Members and School Board. The corridor shown by GIS Mapping started at the east limits of Linden Avenue at Luray Middle School and generally followed the fence line over pasture fields and through one residential parcel to and intersection with Recreation Park Access Road (i.e. Sixth Street). It is important to note that in the "mapping," Third Avenue would be positioned on the pastureland side of the fences (of Clark and Others) for the extents of the corridor.

Racey Engineering, PLLC was engaged on 09/27/17 by the Town and Greenway Foundation [1] to make Title Determinations of the ownership of the Third Avenue Corridor Lands, and; [2] to make determinations if by record or survey there was any potential that this corridor had been accepted into the Town Corporate Limits at some point in the past.

Racey Engineering, PLLC is providing [as deliverables] the following report and documents as needed to complete the assignments outlined herein and above.

### **I. Town Corporate Limits Location**

Racey Engineering, PLLC has completed Field and Office Surveying assignments that clarify that the northern edge of the "Mapped" Third Avenue Corridor is indeed on the pastureland side of the fence line that spans from First Street to Fifth and Sixth Street. For clarity, Sixth Street is the Town's Recreation Park Access Road.

There further, is no indication or record of any kind, that illustrates or represents that the Town of Luray accepted the "Mapped" Third Avenue Corridor (i.e. "Third Avenue") into the Town Streets System. All courthouse research to date represents that Town Corporate Limits Plat of 1984 is accurate in its' depiction of the limits shown. Third Avenue is shown in the Town Corporate Limits, but the Town accepted no Deed Title to this Corridor. The record of title and ownership being held by others, and not the Town, is an opinion that is further reinforced by the Reed & Reed, PC Report of January 16, 2018 (i.e. "the Reed Report").

**II. Ownership of Third Avenue:**

Racey Engineering, by use of Field Survey and the Reed Report, has made clear determinations that Third Avenue is positioned on the south side of existing fence lines and this corridor is believed to be within the Town Corporate Limits. It is not, however, a street corridor that was accepted by the Town by Deed or Record.

The land that is “mapped” as Third Avenue was substantially purchased by Nelson H. Clark on July 8, 1920. Mr. Clark purchased the lands from the defunct Valley Land & Improvement Company (via action with Trustee J. Kemp Bartlett, Jr.). Mr. Nelson H. Clark conveyed lands to two (2) family members as shown in the attached Reed Report.

There was a very small section of Third Avenue, as noted and shown in hatching on the attached exhibit that was conveyed to another party in the late 1800’s. This purchase remains unsolved in source and title for current surveys and Title Reports.

There is also one parcel that is currently held by the Page County School Board and thus with this parcel is contained the “mapped” Third Avenue Corridor. This parcel is generally positioned adjacent to the Luray School Properties.

**III. Third Avenue Development Concerns:**

Racey Engineering, PLLC concludes and takes the position that Third Avenue as a public street right-of-way is nothing more than a mapping element shown on the Page County GIS System. There has been extensive research by local, qualified professionals who regularly search title and make field surveys. There is a consensus that there is no public use available by Deed or Record for development of this corridor.

The Third Avenue Corridor is currently private properties held by three or more interests for the extents from the termination of Linden Avenue to the intersection with Sixth Street [i.e. The Park Access Road]. If the Greenway Foundation is to continue with development concepts along this corridor, it will be charged with acquiring a substantial section of Right-of-Way from the Clark Family Members and Page County School Board.

Experience dictates that as Engineer we must point out that resolving interests in the small hatched land area near Sixth Street is going to be potentially more difficult than any portion of the Corridor. There will be much difficulty in resolving who maintains interests in this land. If a property acquisition project is initiated by the Luray Greenway Foundation, further determinations of scope and approach will be required for this area.

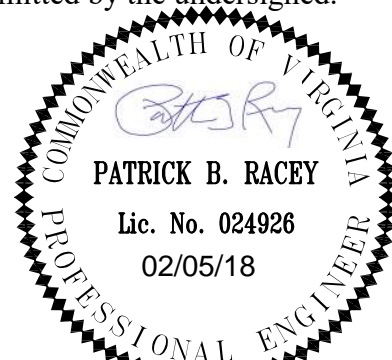
**VI. Closing-** Racey Engineering is providing and submitting this Assessment of the “former” Third Avenue Corridor (Report) in service to the Client. If there should be questions with the contents of this report, or if additional information is needed, please contact the undersigned. Thank you.

**SIGNATURE BLOCK**

This Report, and the Arrangements relating thereto, are made and submitted by the undersigned.

**Racey Engineering, PLLC**  
**Patrick B. Racey, PE**  
**Principal of the Company**

Stamp:



Attachments: [1] Reed Report of 01/16/18, and;  
[2] Map Exhibit by Racey dated 02/05/18

cc: 6338, Greenway Phase V & VI File  
Client- Mr. Bryan T. Chrisman

## REED & REED, P.C.

Attorneys and Counsellors at Law  
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P.O. Box 766  
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Fax (540)-743-4806

January 16, 2018

Racey Engineering, PLLC  
Attn: Patrick Racey  
312 West Main Street  
Luray, Virginia 22835

Sent via email to: [pracey@raceyengineering.com](mailto:pracey@raceyengineering.com)

RE: Portion of Undeveloped Third Avenue, Valley Land and Improvement Company  
Located in Luray, Page County, Virginia

Dear Pat:

In accordance with your request, we have completed research in the land records of Page County, Virginia concerning that certain tract or parcel of real estate situate in Page County, Virginia, identified as a portion of Third Avenue as more particularly shown on the survey and plat of Section Two of the land of the Valley Land and Improvement Company.

Our research indicates that the Valley Land and Improvement Company platted certain streets and alleyways, including Third Avenue, on its survey and plat of Section Two of its land located Page County, Virginia in the late 1800s. From the land records reviewed in the Clerk's Office of the Circuit Court of Page County, Virginia ("Clerk's Office"), it is believed that shortly after the platting of the aforesaid real estate, the Valley Land and Improvement Company had solvency problems. This company was the subject of numerous lawsuits related to its development and sale of its aforesaid real estate, including Third Avenue.

The records in the Clerk's Office indicated that in the early 1890s, J. Kemp Bartlett, Jr. was appointed as Substitute Trustee in the Chancery Suit filed in the Page County Circuit Court styled E.C.R. Humphries, et. al. v. the Valley Land and Improvement Company, et. al., and was directed to sell the then unsold real estate owned by the Valley Land and Improvement Company located in Page County, Virginia on certain terms and conditions contained in the Court's order. We believed that the majority of Third Avenue was included as part of the unsold real estate owned by the Valley Land and Improvement Company and directed to be sold under the aforesaid Court order. Therefore, J. Kemp Bartlett, Jr., in his capacity as Substitute Trustee in the aforesaid case and pursuant to the aforesaid Court order, is believed to have had the authority to convey portions of Third Avenue to third party purchasers.

Throughout the late 1800s and early 1900s, J. Kemp Bartlett, Jr. sold and conveyed a large number of parcels owned by the Valley Land and Improvement Company to various third party purchasers pursuant to the aforesaid order. By that certain deed dated July 8, 1920, J. Kemp Bartlett, Jr., as Substitute Trustee in the above styled case and pursuant to the aforesaid Court order, conveyed unto Nelson H. Clark all of those certain lots or parcels of lands located in Block 115, Section Two, on the plat of the land of the Valley Land and Improvement Company, less however lots numbered 9 and 10 in the aforesaid Block, which had been previously conveyed. Also conveyed by this deed unto Nelson H. Clark were the streets surrounding the aforesaid Block 115, as well as the alleyways passing through the aforesaid block. This deed further conveyed unto Nelson H. Clark the “bed” of Third Avenue from its intersection with the west side of Fifth Street, westwardly to its intersection with the eastern line of Bradley Cullen’s farm. The aforesaid deed is of record in the Clerk’s Office of the Circuit Court of Page County, Virginia (“Clerk’s Office”) in Deed Book Number 79, at page 8, et. seq.

We believe this aforesaid deed conveyed that portion of Third Avenue from the western side of its intersection with Fifth Street to its intersection with Second Street. Further, it is highly likely that this deed also conveyed that portion of Third Avenue from its intersection with Second Street to its intersection with First Street. The approximate location of both of these portions of Third Avenue are highlighted in yellow on the attached Exhibit A.

Part of the aforesaid portion of Third Avenue is located within the bounds of that certain tract or parcel containing 102.549 acres, more or less, as shown on that certain survey plat prepared by Bobby L. Owens, Land Surveyor, dated November 29, 1993, the residue of which tract is identified as Page County Tax Map Parcel Number 52-(A)-5. This aforesaid parcel is currently owned by Nelson T. Clark according to the records of the Page County Commissioner of Revenue.

Part of the aforesaid portion of Third Avenue is located within the boundaries of that certain tract or parcel of land containing 114.894 acres, more or less, as shown on that certain survey plat prepared by Bobby L. Owens, Land Surveyor, dated November 29, 1993, which tract is identified as a portion of Page County Tax Map Parcel Number 52-(A)-6. This aforesaid parcel is currently owned by G. Vernon Boggs (Sr.), if he survives Annie Lee Clark, or if he predeceases her, by G. Vernon Boggs, Jr., subject to the life estate of Annie Lee Clark, according to the records of the Page County Commissioner of Revenue.

Part of the aforesaid portion of Third Avenue (from the west side of its intersection with Fifth Street, westwardly to the eastern line of the former Bradley Cullen’s farm) is located within the boundaries of that certain tract or parcel of land containing 0.423 acres, more or less, as shown on that certain survey plat prepared by Bobby L. Owens, Land Surveyor, dated November 29, 1993, which tract is identified as Page County Tax Map Parcel Number 42A11-(A)-263. This aforesaid parcel is currently owned by the Page County School Board, subject to the life estate of William R. Breeden, according to the records of the Page County Commissioner of Revenue.

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January 16, 2018  
Racey Engineering, PLLC

We terminated our research upon the aforesaid findings and did not continue to research the remaining portions of Third Avenue as it extends in a southeastern direction from this Avenue's intersection with the west side of Fifth Street, nor as it extends in a northwestern direction from its intersection with the former Bradley Cullen farm in the vicinity of the Avenue's intersection with First Street. If you wish for us to continue to research the aforesaid portions of Third Avenue please let me know and we will continue to do so.

We have not completed research concerning any liens, encumbrances, encroachments, or otherwise which may impact the aforesaid portion of Third Avenue set forth above. Nor have we given an opinion as to the ability of any local municipality or other entity to utilize the aforesaid portion of Third Avenue set forth above.

This report and opinion are based upon the accuracy of the indices and the records of the Clerk' Office of the Circuit Court of Page County, Virginia, the records of the Commissioner of Revenue's Office of Page County, Virginia, and the records of the Treasurer's Office of Page County, Virginia, and the undersigned assumes no liability nor responsibility for any inaccuracies in said indices or records, nor any matters not of record in said Clerk's Office, nor in any respect other than that of the use of due diligence in examining the record title to said real estate for the period set forth above. The undersigned further accepts no responsibility with respect to the metes and bounds description of the real estate set forth in the deed/deed of trust nor any discrepancies, conflicts in boundary lines, shortages in area, encroachments, easements or any other facts which a correct survey would disclose. The undersigned further makes no representation as to the zoning of the real estate or its past or present environmental history or status, including but not limited to the real estate proximity to or location on or above certain caverns or the nearby fuel storage tanks. The undersigned further makes no representation as to the legal access to and from the real estate to a public road.

We appreciate the opportunity to work with you on this matter. If you have any questions concerning this letter please contact me. I have enclosed our current invoice in this matter.

Sincerely,  
REED & REED, P.C.  
Attorneys & Counsellors at Law



David M. Reed, Esq.

Enclosures: Exhibit A  
Invoice

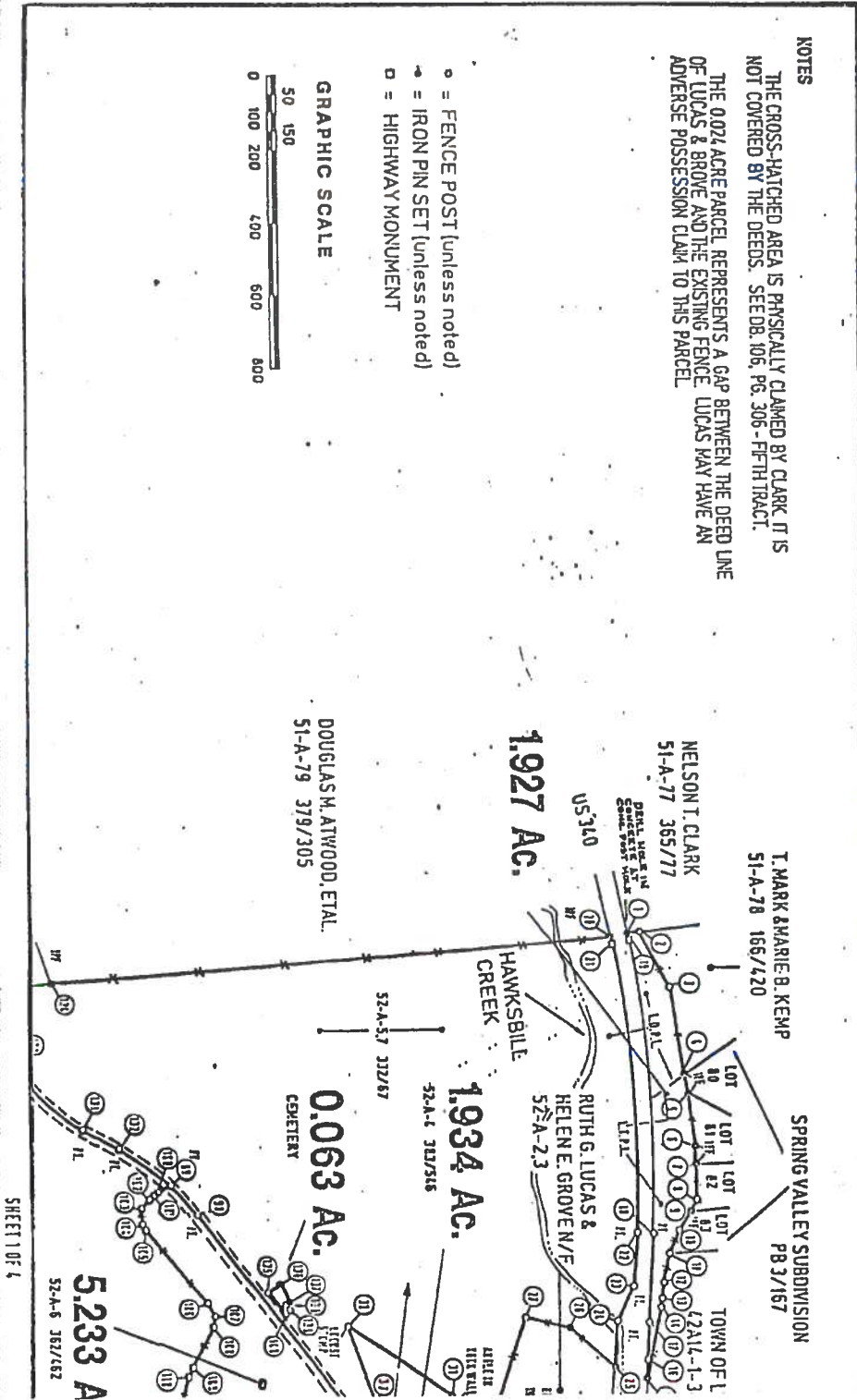
**NOTES**

THE CROSS-HATCHED AREA IS PHYSICALLY CLAIMED BY CLARK. IT IS NOT COVERED BY THE DEEDS. SEE DB: 106, PG. 306 - FIFTH TRACT.

THE 0.074 ACRE PARCEL REPRESENTS A GAP BETWEEN THE DEED LINE OF LUCAS & BROVE AND THE EXISTING FENCE. LUCAS MAY HAVE AN ADVERSE POSSESSION CLAIM TO THIS PARCEL.

- = FENCE POST (unless noted)
- = IRON PIN SET (unless noted)
- = HIGHWAY MONUMENT

**GRAPHIC SCALE**





# DIVISION of the CLARK LANDS

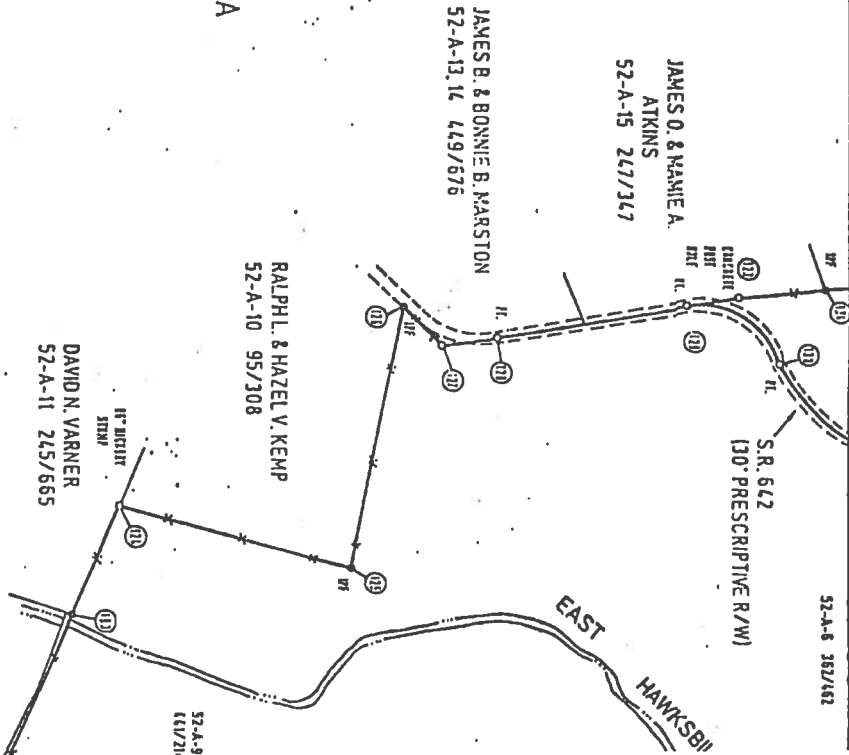
LURAY DISTRICT & TOWN OF LURAY, PAGE COUNTY, VIRGINIA  
NOVEMBER 29, 1993 SCALE: 1" = 200' PROJECT 93-701

## PRESENT OWNERS

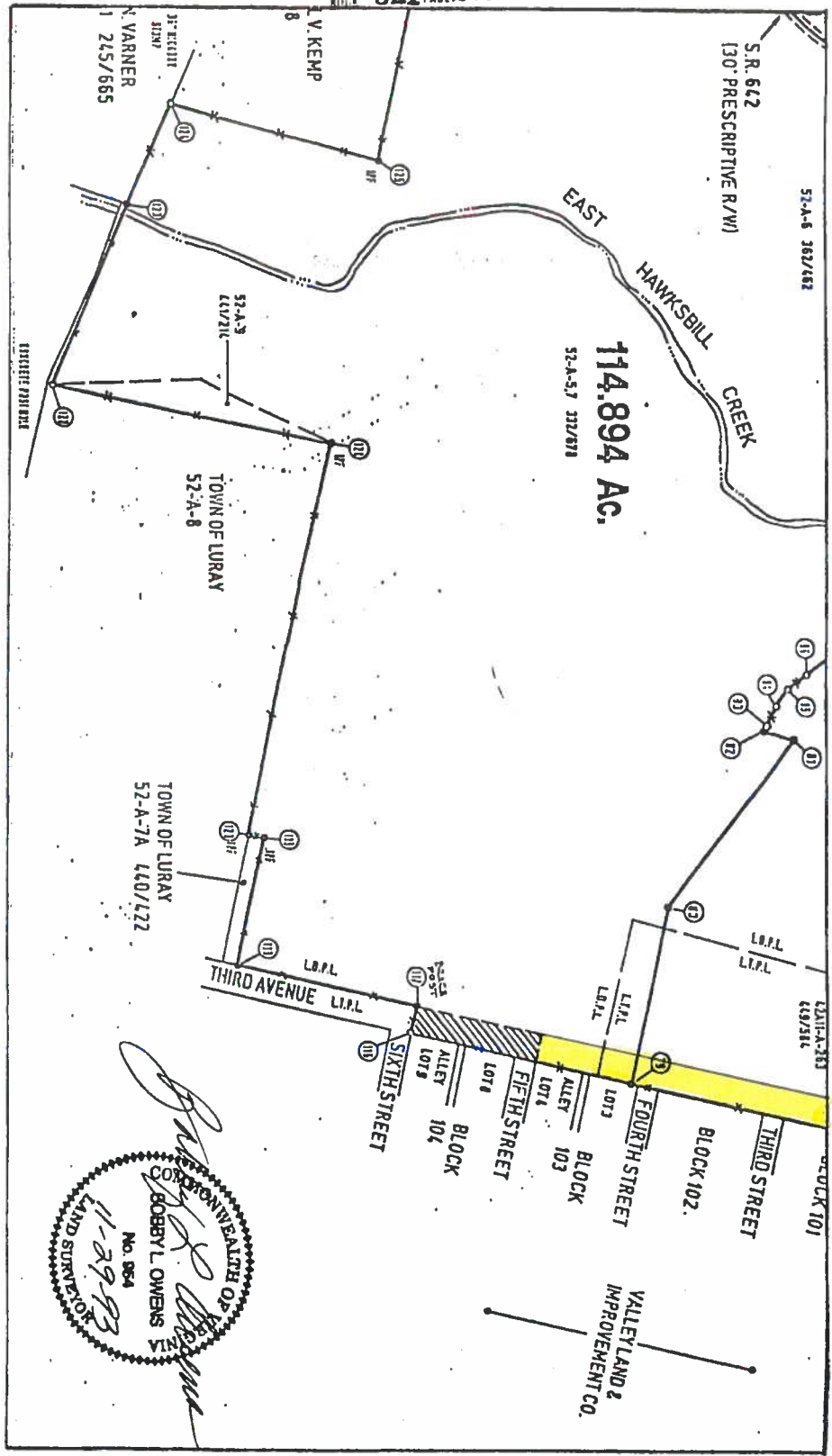
TERRY B. & NELSON T. CLARK  
42-A-31 & 52-A-5, 7 03, 202, PG. 678  
52-A-6 03, 203, PG. 516  
52-A-9 03, 411, PG. 216

TERRY B. & ANNEL CLARK  
42AH-A-263 03, 419, PG. 516  
52-A-8 03, 382, PG. 682

NELSON T. CLARK  
42-A-39 03, 491, PG. 682  
42AH-A-272A 03, 191, PG. 495



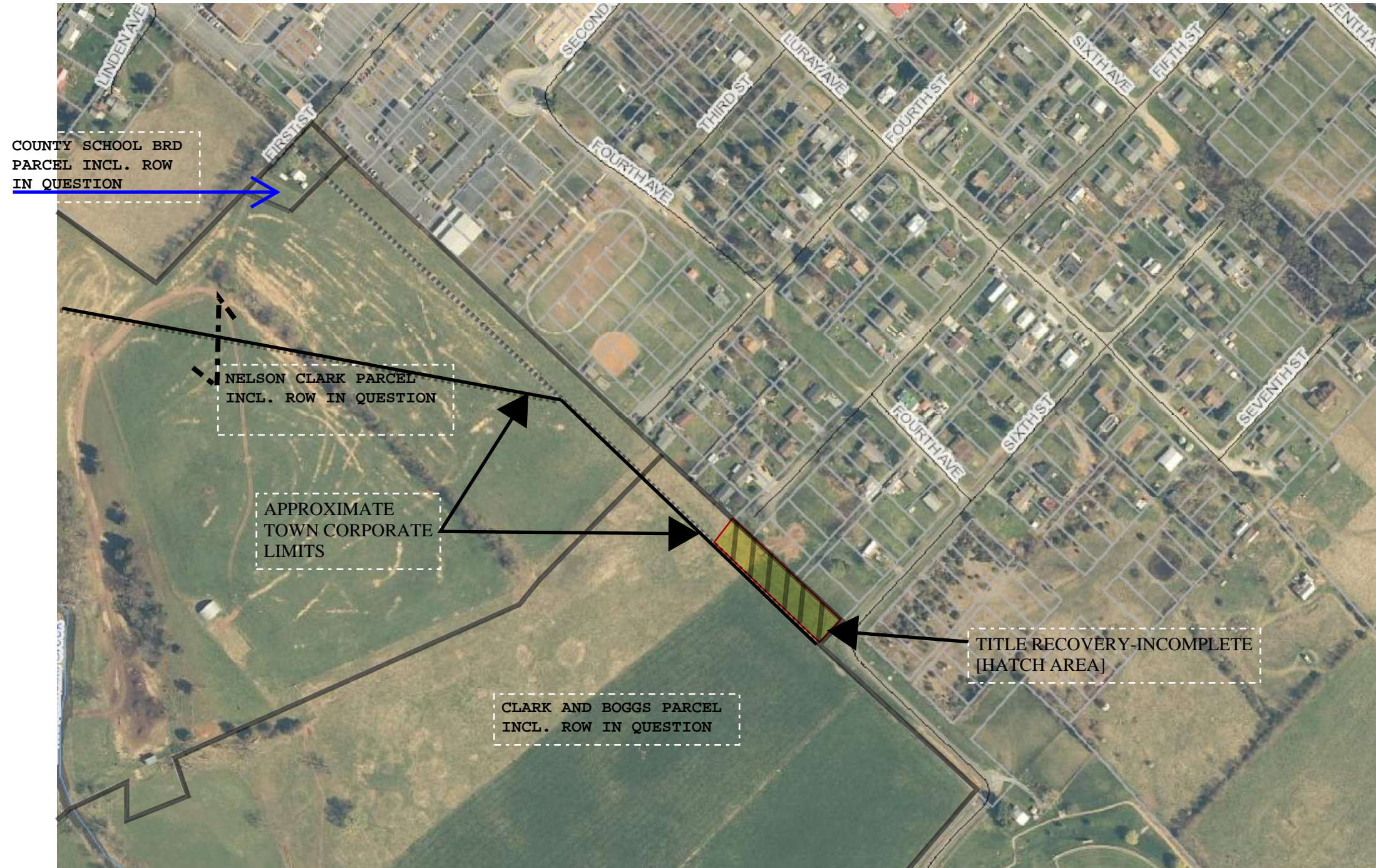




*Robert L. Owens*  
 ROBERT L. OWENS  
 No. 984  
 11-29-93  
 LAND SURVEYOR  
 STATE OF MISSISSIPPI

0000011001

NOTE: THIS IS AN ILLUSTRATIVE EXHIBIT ONLY. THIS DOCUMENT IS NOT A RECORD DOCUMENT OR FINAL DELIVERABLE. THIS MAP ILLUSTRATION WAS REQUESTED FOR REVIEW AND CONVERSATION WITH TOWN PROJECT MANAGER.



NOTE: THIRD AVENUE ROW WAS ACQUIRED BY CLARK UPON THE BANKRUPTCY ACTIONS OF THE VALLEY LAND & IMPROVEMENT COMPANY. THERE NEVER WAS A FORMAL DEDICATION OF THIRD AVENUE THUS CLARK ACQUIRED LANDS AND PROPOSED ROW IN 1920'S