

Prince George's County Cemetery Ownership Study

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Introduction

Overall Purpose and Project Research Goals

In the fall semester of 2021, graduate students in the Historic Preservation program at the University of Maryland, School of Architecture, Planning and Preservation conducted a research study for the Prince George's County Planning Department. The study's purpose was to provide the Planning Department with best practices and recommendations for establishing ownership of unmaintained cemeteries and for developing a maintenance and perpetual care plan.

The project goal includes two phases; the first is a case study and policy analysis of local and state government practices for establishing ownership and preservation plans for unmaintained cemeteries. Based on the analysis and findings in phase one, the second phase builds recommendations and an action plan for two cemeteries in Prince George's County.

In partnership with the County Planning Department, the PALS graduate assistant team compiled research and analysis that met the following course deliverables:

- Case study and policy analysis of local and state government approaches to establishing ownership and preservation plans for unmaintained cemeteries.
- Recommendations and action plan for two cemeteries in Prince George's County.
- Comprehensive final report of analysis, findings and recommendations.

Report Methodology and Structure

This report compiles research and analysis from the study's two phases and concludes with recommendations based on findings. The report's first section reviews case studies and best practices at five cemeteries across the United States. The second section builds a policy analysis and best practices based on state legislation, policies and programs that focus on cemetery preservation, maintenance and ownership. The third section presents historical information of to Prince George's County family cemeteries and an assessment of their potential ownership and management.

This report concludes with recommendations for establishing ownership and developing plans for maintaining the Gray and Magruder family cemeteries in Prince George's County. The recommendations are based on the analysis of case studies and policies on the management and preservation of cemeteries at local and state levels of government.

Case Study Analysis

Introduction

This research explores policies and practices at unmaintained or neglected cemeteries across the United States. There are two issues in conducting this research— “unmaintained cemeteries” are not well defined in literature, and the low-visibility nature of these sites makes them difficult to identify. The following case studies have been chosen for their diverse contexts and approaches to recognizing and preserving cemeteries. The chosen sites range from urban to rural settings and vary in scale and number of burials: Riverview Cemetery in Wilmington, Delaware; Third Street Cemetery in Dubuque, Iowa; Huguenot Cemetery in St. Augustine, Florida; Bennett Family Cemetery in Hall County, Georgia; and Olive Branch Methodist Church Cemetery in Warren County, Ohio.

Riverview Cemetery, Wilmington, Delaware

Riverview Cemetery was established in 1872 by the Knights of Pythias and the Independent Order of Odd Fellows and remains active to this day.¹ Though not abandoned in the traditional sense, it suffered long-term negligence, mismanagement and vandalism from the mid-1990s to the mid-2000s.

Operated by the Knights of Pythias and the Independent Order of Odd Fellows, a nonprofit organization, the cemetery struggled to secure funding for operation and maintenance costs as early as 2000. Concerns for proper groundskeeping and stewardship grew as the cemetery continued to operate at increased losses; operating at a loss of \$101,280 in 1990, which increased to \$146,764 the following year.² By 2001, charges of neglect and fraudulent sales practices of lots and burial services were brought against the owner. Additionally, the issue of misplaced graves highlights the struggle to locate graves, including that of the two-year-old burial of Melvin Allen.³

In response to these charges, Delaware State Senator Harris B. McDowell III introduced legislation to establish protections and preventative measures for cemeteries and their care. The bill would establish an Office of Cemetery Oversight within the Department of Health and Social Services to conduct inspections on cemetery practices. It would also require owners to establish continuing-care funds for sites, be licensed and registered to operate a cemetery, and ultimately charge them as solely responsible for proper maintenance and practices under the law. McDowell’s bill is cited as patterned after an established Maryland state law that established the Cemetery Supervisory Office in 1997.⁴ An additional ruling by a federal bankruptcy judge declared Riverview Cemetery abandoned to help transfer ownership without liability.⁵

¹ “Historic Riverview Cemetery,” Historic Riverview Cemetery, accessed October 10, 2021, <https://riverviewcem.com>

² Terri Sanginiti, “Residents Scramble to Save Cemetery,” *News Journal*, July 23, 2000.

³ Terri Sanginiti, “Cemetery Owners Charged,” *News Journal*, February 1, 2001.

⁴ Terri Sanginiti, “Lawmaker’s Plan Holds Cemeteries Accountable,” *News Journal*, February 2, 2001.

⁵ Terri Sanginiti, “Judge Allows Cemetery to Be Declared Abandoned,” *News Journal*, February 2, 2002.

By 2007, a proposal for the development of new townhomes at the site of a chapel on the property raised concerns among community residents and descendant communities. As a result, concerned parties formed the Friends of Historic Riverview Cemetery (FHRC). The organization filed a lawsuit to fight the proposed development and in 2009 reached a settlement to transfer Riverview's title and supplementary funds to the FHRC.⁶ Today, FHRC retains Riverview's stewardship and is guided by its mission to maintain, restore and preserve the site. In addition, there are ongoing discussions on how to use the cemetery as a resource for local history, genealogy and education.

Third Street Cemetery, Dubuque, Iowa

Third Street Cemetery was established in 1833 by the parish of St. Raphael's Cathedral in Dubuque, Iowa. Prevalent issues are poor record-keeping and documentation, its urban setting and encroaching development, and land use and management.

Though Third Street served as the primary burial grounds for the church until 1880, a secondary site was established in 1856 and called Key West, present-day Mount Olivet. By the late 1870s, issues of overcrowding and disrepair prompted families to reinter their loved ones at Mount Olivet. Internments from Third Street were relocated to the new site as early as 1879, a year before its last burial and subsequent closure. By 1901, the church proposed plans to relocate all graves from Third Street to Mount Olivet. However, there is no record of which burials were moved, if any. As time progressed and collective memory faded, the site was eventually forgotten.

St. Raphael's poor record-keeping and documentation of burials were the catalysts for negligence. While burials actively took place, the church took little care to document their number and locations. After changing its primary burial grounds to Mount Olivet, the church failed to manage that site properly. Vandalism destroyed headstones and thus indicators of burials. The church also failed to document any relocations of burials to Mount Olivet, leaving only a vague note mentioning the possible relocation of all burials.

While the church was negligent as the site owner, the City of Dubuque demonstrated equal disregard. Rather than surveying the site of the previously known burial ground, they accepted inadequate records as evidence that the site was cleared. Then they repeatedly proposed the lot for development even after discovering several burials during each project. The city had little interest in the site and its history and instead relied on fading public memories of the cemetery while pursuing failed development proposals for economic gain.

The Third Street Cemetery offers insights for contemporary practices in preserving neglected and misused sites, such as documentation, research and site surveys. Mandated by state law, extensive surveys and excavations produced comprehensive documentation of burials at Third Street Cemetery.

⁶ "Historic Riverview Cemetery."

These studies identified approximately 900 burials at the cemetery. With public and community input, these burials were relocated to Mt. Olivet Cemetery's Third Street section.⁷

Huguenot Cemetery, St. Augustine, Florida

The Huguenot Cemetery is in downtown St. Augustine, established in 1821 by the Memorial Presbyterian Church and remains in its stewardship today. Like Third Street, Huguenot fell into disuse due to overcrowding, and the last interment took place in 1884. Though still maintained by the church, the site was closed to the public after 1946, and in 1951 the parish's restoration efforts revealed the project's scope and that necessary repairs were outside their abilities.⁸

In 1989, renewed interest in restoring the site prompted the establishment of the Cemetery Restoration Committee. The committee comprises members from the St. Augustine Preservation Board, Historical Society and Genealogical Society. First steps worked to document and research burials. Measured drawings of markers and tombs were accompanied by genealogical and historical research on internments.⁹

In 1992, the committee successfully obtained a survey and planning grant from Florida's Division of Historical Resources. The committee used the grant to create a master preservation plan for the site's long-term maintenance and restoration.¹⁰ Currently, the grounds are closed to visitors except for guided tours and local heritage events. Guided tours highlight the cemetery's history and burials while local events such as the Procession in Remembrance of the Unknown to mark All Saints Day engage residents. Limited access to the site is intended to prevent wear resulting from cut-through pedestrian traffic in the downtown.

Bennett Family Cemetery, Hall County, Georgia

The Bennett Family Cemetery differs from the previous sites due to its small number of burials (approximately 80 to 100) and its short period of active internments (the mid-late 1800s). In addition, the small site is located between the properties of Dee Hays and Jerry Nicholson—two landowners with vastly different attitudes toward the cemetery. Though unrelated to those buried at Bennett, Hays is recognized by descendant communities as its steward and actively works to ensure the site's recognition and preservation. Nicholson however, views the site as an imposition and an unappealing element of his 2000 subdivision development proposal.

⁷ Division of Historical Resources, "Case Studies: Preservation and Protection of Historic Cemeteries in Florida," Florida Department of State, accessed October 10, 2021, <https://dos.myflorida.com/historical/archaeology/human-remains/abandoned-cemeteries/case-studies>.

⁸ Florence S. Mitchell, *Sacred to the Memory: A History of the Huguenot Cemetery, 1821-1884, St. Augustine, Florida* (St. Augustine, FL: Friends of the Huguenot Cemetery, 1998).

⁹ Kimeko McCoy, "Citizens Guard Buried History at Huguenot Cemetery," *The St. Augustine Record*, March 15, 2015, <https://www.staugustine.com/article/20150315/news/303159961>; Division of Historical Resources, "Case Studies: Preservation and Protection of Historic Cemeteries in Florida," Florida Department of State, accessed October 10, 2021, <https://dos.myflorida.com/historical/archaeology/human-remains/abandoned-cemeteries/case-studies>.

¹⁰ Division of Historical Resources, "Case Studies: Preservation and Protection of Historic Cemeteries in Florida."

Hays's concern and research into Nicholson's development proposal showed that his initial plat omitted any mention of a graveyard on the land. As a result, a local judge provided a stop-work order for construction and required a new plat drawn to include Bennett Cemetery. This second plat, however, misrepresented the true extent of the site's boundary. As a result, another stop-work order called for a survey of the site, from which a third and final plat was made.¹¹

Though Hays successfully had the full extent of the cemetery included in adjacent plans for development, this case study illustrates the need for greater protections and resources offered by governments, professionals, and private organizations. If not for Hays's vigilance and research, Bennett Cemetery might have been partially destroyed by new development. It also illustrates the attitudes of some developers toward cemeteries and their desire to maximize profits by knowingly neglecting aspects of local history.

Olive Branch Methodist Church Cemetery, Warren County, Ohio

The Olive Branch Cemetery was established in 1823 and served as the church's primary burial grounds until the 1930s when the parish dissolved during the Great Depression. In 1932, the deed was transferred to trustees of Washington Township in Warren County. Conditions of the transfer adhered to state law, which mandated continued maintenance of the grounds. However, such stewardship was neglected in the 1980s. The site left to the elements and time and plans were made for a major highway to run adjacent to the site. A planned exit ramp further threatened to bisect the property and a gas station was proposed directly on top of the site and its burials. After local pushback, the exit and gas station were moved to another location, and Olive Branch was left untouched.¹²

These issues highlight the reliance of small and rural cemeteries on collective memory for their preservation and endurance. Washington Township shows that the horizon of collective memory for abandoned cemeteries is limited. Roughly fifty years after acquiring the title, the Township abandoned its legal duty as a caretaker and proposed irreversible and highly destructive highway development for the site. Though unsuccessful, the Township likely relied on fading interest in the site that hadn't been used since the 1930s.

Best Practices and Summary of Findings

Each case study offers unique circumstances and practices in dealing with abandoned cemeteries. Both rural and urban sites are subject to threats of development, neglect, and misuse. Issues of proper land management, stewardship, and collective memory present further challenges. The case studies emphasize that solutions to effective and proper management of sites rely on diverse and accessible resources in preservation, funding and local activism.

¹¹ Jason Oliver Smith, "The Use of Land Trusts to Preserve Graveyards in the American Southeast" (Athens, Georgia, The University of Georgia, 2001).

¹² C. A. Shaffer, "The Standing of the Dead: Solving the Problem of Abandoned Graveyards," *Capital University Law Review*. 32, no. 2 (2003): 480–82

The Bennett and Huguenot cemeteries illustrate the limits of a single entity's ability to properly maintain a site, pointing to the need for specialized resources in interpretation, restoration and preservation. At Huguenot, the parish recognized its limitations and established a committee in the mid-1990s when history and preservation resources were secured. Further, Bennett and Huguenot emphasize the need for collaboration between governments and private organizations to maintain these sites and establish stronger and more long-term preservation plans.

Development issues are pressing in most case studies, though they vary in context. For example, Bennett and Olive Branch cemeteries illustrate the tendency of developers to view abandoned cemeteries as incompatible with construction and profit. Additionally, these sites emphasize that reliance on collective memory can be insufficient in showing their importance to the community. Both sites, long abandoned, were regarded as non-essential because of their disuse and low visibility.

Similarly, Third Street Cemetery highlights the loss of collective memory as a catalyst for various development projects. However, Third Street presents another issue of neglect and improper management by the City of Dubuque. The repeated development proposals and subsequent archeological excavations demonstrate the importance of a comprehensive site survey to define site boundaries, gravesite distribution and the number of burials.

These case studies provide various methods for best practices to care for abandoned cemeteries. Community input and participation are vital for transparency and to establish the best use of sites. Similarly, there is a need to collaborate in maintenance, restoration and preservation, as demonstrated by Huguenot Cemetery. The number and diversity of invested parties ensures a full range of protections and efforts in maintaining sites. These efforts should include site surveys, research and documentation of burials, boundaries, headstones and other features, such as the excavations at Third Street Cemetery.

Overall, there is a general lack of protection for abandoned cemetery sites. Though legal action provides an avenue toward proper management and care, such protections tend to be on a case-by-case basis. Additionally, the case studies illustrate the importance of long-term funding and preservation plans. State legislation may help provide basic protections and guidelines for approaching these sites. It may further provide requirements for cemeteries to present a long-term maintenance plan in establishing new cemeteries.

Policy Analysis

Introduction

Along with the case study analysis, this study also researched state-level policies and programs to assess how various states manage and preserve cemeteries experiencing neglect or lack of maintenance. Primarily focusing on Maryland state legislation, this project then broadened the scope to incorporate a policy analyses of Louisiana, Massachusetts, Pennsylvania and North Carolina.

While each state uses different terminology to address neglected or unmaintained cemeteries, the five states all present key themes including policies for managing burial grounds and engaging volunteerism from various organizations such as the Boy Scouts, Lion's Club, and Sons of the American Revolution. In Louisiana, prison labor is used to clean sites.¹³

Maryland - State Policies and Legislation

Cemetery codes, policies and programs in Maryland are found in resources from state agencies and historic preservation organizations. For example, The Maryland Historic Trust notes that cemeteries are not often eligible for the National Register of Historic Places, however, cemeteries in the state may be included in the Maryland Inventory of Historic Properties (MIHP). The Trust explains that listing on the MIHP has no regulatory impact on the site and is not a historic designation.¹⁴

Section 14-122 of Real Property state law states that any county or corporation may request permission from the owner of a burial site to help maintain and preserve the site. The section also explains that this can be done through charitable organizations or a community group, and that these projects can be done as as community service hours or for student-based community work.

The law also suggests engaging genealogical societies in the cemetery's location that could provide additional awareness and connection for cemetery descendants. For cemeteries without burial markers and tombstones, genealogical societies may offer resources and records of those interred at the cemetery as well as living descendants. Regarding relocation of interments and changing the use of a burial ground, Maryland law states that it's important to find and engage descendants of those interred and involve them in the process of burial relocation. However, usually the state attorneys do not consult with descendants before granting the authority to relocate graves.

Lastly, Maryland policies suggest several ways to help with cleanup and maintenance, including working with non-profit and civic organizations, listing several groups that can help with cemetery restoration: Boy Scouts and Girl Scouts of America, Sons and Daughters of the American Revolution,

¹³ "Title 8, Cemeteries," Louisiana Revised Statutes, accessed October 15, 2021, <http://www.lcb.state.la.us/legal/lca2018.pdf>

¹⁴ "Preservation Historic Cemeteries," Coalition to Protect Maryland Burial Sites, accessed October 14, 2021, <https://cpmb.org/preservation-historic-cemeteries/>

Veterans of Foreign Wars and Lions Clubs.¹⁵

Massachusetts - State Policies and Legislation

Cemetery laws and policies in Massachusetts address the legalities of burial sites with regard to ownership and uses by private, public and nonprofits groups. While state policies don't specifically address unmaintained or neglected cemeteries, Massachusetts laws describe the legal framework for ownership and use of cemeteries and burial sites.

In particular, state laws under General Laws Chapter 114: Cemeteries and Burials, including Section 17, state that a town or locality does not hold authority to use a burial ground for any alternative use other than burial sites. The law further states that no such burial ground can be taken for public use without authority from the general court. The section also defines a "Burial place" to encompass unmarked burial grounds, both known and suspected to be the remains of Native Americans.¹⁶

Additionally, several Massachusetts state laws address questions of cemetery ownership and the purchase and sale of burial plots. Section 43A explains that cemeteries established after July 5, 1936 can't be owned and maintained by a group, religious or otherwise, for private profit. Other state laws, including Section 43B and Section 28, describe the selling of cemetery lots and plots, along with crypts and ownership rights, titles and interest, and creating trusts and heirs. Lastly, Section 31 addresses a cemetery lot owned by a testator at his death and how ownership passes to an heir.

Louisiana - State Policies and Legislation

Louisiana state policies and programs are designed to preserve and manage unmaintained or abandoned cemeteries. One aspect of Louisiana's policies includes a board or committee that focuses on maintaining cemeteries, establishing new ownership, and authorizes a selected group to oversee the purchase of cemetery properties.¹⁷

Under the Louisiana Revised Statutes Title 8: Cemeteries, Chapter 6-A Abandoned Cemeteries, an abandoned cemetery is defined as any cemetery where the Louisiana Cemetery Board can't locate the owners. This board monitors and oversees various activities related to cemetery management and maintenance across the state.

Along with the board, the section also mentions another group that is part of the preservation of

¹⁵ "Annotated Code of Maryland: Criminal Law, Title 10. Crimes Against Public Health, Conduct, and Sensibilities, Subtitle 4. Crimes Relating to Human Remains," Maryland Historic Trust, accessed October 20, 2021, https://mht.maryland.gov/documents/PDF/research/Burial_Law.pdf

¹⁶ "Chapter 114: Cemeteries and Burials," Commonwealth of Massachusetts, accessed November 15, 2021, <https://malegislature.gov/laws/generallaws/parti/titlexvi/chapter114>.

¹⁷ "Louisiana Revised Statutes: Title 8 Cemeteries," Louisiana Cemetery Board, accessed October 20, 2021, <http://www.lcb.state.la.us/legal/lca2018.pdf>.

cemeteries, referred to as the “Division,” a group of archeologists from the Office of Cultural Development in the Department of Culture, Recreation and Tourism. The policy notes that the last group involved in abandoned or unmaintained cemeteries are the “Licensee;” they are any persons who have been issued a license from the Louisiana Cemetery Board to own, manage and sell abandoned cemeteries. The section on licensees explains that “[a]n abandoned cemetery sales and management license shall be issued only to a nonprofit juridical person.”¹⁸ Section 413 - Licensee Authority, allows the licensee to sell grave spaces, and make and enforce rules and regulations. Section D broadens this policy: “[t]he licensee is prohibited from destroying or removing any original grave markers from the premises of the cemetery without obtaining permission required by R.S. 8:659.”¹⁹ This policy demonstrates that while the ownership of the site may not be under the board itself, the owner has to maintain the site and can’t use it for anything other than a burial ground.

Section 414 - Additional Powers of the Board, further describes the roles and responsibilities of the board and the owner or licensee. The board can refuse to issue an abandoned cemetery sale and management license and can also revoke or suspend a sale or management license.²⁰ In 415 - Labor by Prisoners Permitted, Section A explains that the state may allow prison labor to maintain and clean abandoned cemeteries. Lastly, Chapter 13. Miscellaneous, 903. B. states that the “cemetery authorities may require payment of all documented repair and/or renovation costs before any such renovated or repair interment space may thereafter be used.”²¹

Pennsylvania - State Policies and Legislation

Pennsylvania addresses abandoned cemeteries in the General Assembly and mentions Neglected and Abandoned cemeteries under Consolidated Statutes, Chapter 28. In particular, Section 2805.1(a) explains, “the council may, ... direct the removal of weeds, refuse and debris from an abandoned or neglected cemetery.”²² To do this the Cemetery Council informs the owner that they must maintain the site and if they do not, the council can employ people to clean the site, at the owner’s expense. As in other state policies, the Pennsylvania Cemetery Council oversees maintenance and protection of cemeteries throughout the state.

North Carolina - State Policies and Legislation

The North Carolina General Assembly under “Abandoned and Neglected Cemeteries” defines an “abandoned cemetery” as “Ceased from maintenance or use by the person with legal right to the real property with the intention of not again maintaining the real property in the foreseeable future.”²³

¹⁸ Ibid.,

¹⁹ Ibid.,

²⁰ Ibid.,

²¹ Ibid.,

²² “Chapter 28: Cemeteries,” Pennsylvania General Assembly, accessed November 14, 2021, <https://www.legis.state.pa.us/cfdocs/legis/LI/consCheck.cfm?txtType=HTM&ttl=08&div=0&chpt=28>.

²³ “Article 12: Abandoned and Neglected Cemeteries, Part 1,” North Carolina General Assembly, accessed November 20, 2021, https://www.ncleg.net/EnactedLegislation/Statutes/PDF/ByArticle/Chapter_65/Article_12.pdf.

North Carolina notes a difference between abandoned cemeteries and neglected cemeteries and notes that “neglected” cemeteries are “left unattended or uncared for through carelessness or intention and lacking a caretaker.”²⁴ Overall, North Carolina policies and legislation toward cemeteries provide more definitions for unmaintained cemeteries than the other states reviewed.

Key Takeaways

The policy analysis of five states: Maryland, Louisiana, Massachusetts, Pennsylvania and North Carolina, reveal some key takeaways for how states approach preserving and maintaining cemeteries. First, they establish a board or committee to oversee cemetery maintenance and protection. For example, Louisiana’s Cemetery Board monitors the ownership and maintenance of abandoned or neglected cemeteries. While some states have distinct cemetery boards other states place cemeteries under relevant departments such as Cultural Resources.

Another key takeaway is how states, such as North Carolina, define “abandoned” and “neglected” cemeteries in their policies and programs for establishing ownership and care for unmaintained cemeteries.

²⁴ Ibid.

Selected Cemeteries Analysis

Introduction

This project's second phase analyzed historical background information, site conditions, and key challenges facing two family cemeteries in Prince George's County, Maryland. Key findings in this section include analysis of preservation and funding opportunities, current stakeholders and community stewards, and relevant state legislation and policies.

Gray Family Cemetery

Located in Clinton, Maryland, the property is surrounded on three sides by roads: Alan Drive, Eton Lane and Dorothy Court. The one-acre site is just west of 6010 Alan Drive (Figure 1). There are no tombstones or markers on the property to indicate where bodies are located. According to Dr. Jennifer Stabler of the County Planning Department, who visited the site in November, there are remains of a fence marking where the cemetery is located on the property.



Figure 1. Gray Family Cemetery, Alan Drive, Clinton, MD, Google Maps, 2021

Historical Context and Ownership

The property is owned by Ari Elias-Bachrach, who didn't know it was a burial ground until after purchasing the property. He has spoken with Dr. Stabler. He would like to give the cemetery to an organization that will take care of the grounds. According to Elias-Bachrach, the last family member of the Sellner family was responsible for the site and since this person's passing no one in the family seems interested in maintaining it. Elias-Bachrach does not mention how it was maintained by the Sellners, but it would be interesting to know how they maintained the grounds despite the site having

no tombstones or markers (Figure 2).²⁵

With no markers the question is how to preserve the land itself and its legacy. In correspondence between Stabler, the current owner and a local historian, the cemetery is theorized to be the burial ground of African American enslaved people who worked for the Gray family. (The cemetery is listed as Gray Family Cemetery, with an “a” though records have it spelled with an “e” as Grey.) The burial grounds are believed to date back to pre-emancipation when the property was part of a larger plantation owned by the Gray family. However, while information provided by the County Planning Department notes that the site could have the remains of African American enslaved persons, no records have been found confirm this. In a project team meeting in December 2021, Stabler confirmed that the persons interred at the Gray Family Cemetery remain unknown.



Figure 2. Gray Family Cemetery from Alan Drive, Clinton, MD, Google Maps, 2021

Site Conditions and Challenges

In 1885, Notley Gray subdivided the land to sell; in June of the same year he deeded a section of land to an African American named Charles Holliday. The deed, JWB4 - 699 and JWB4 – 700, details the property to Holliday and in the last sentence mentions the burial grounds on the land as a “my family graveyard.”³ Judging the wording, Notley Gray is most likely indicating that the cemetery holds the remains of his family and not the remains of enslaved persons.²⁶ Over the decades, the land around the cemetery developed into a suburban community. On a 1959 map titled *Suburban Estates; Surratts District*, the property is labeled as Parcel B, listed at 1.009 acres and described as “Not

²⁵ Jennifer Stabler, “Clinton Cemetery,” Email correspondence between Jennifer Stabler and Ari Elias-Bacharch, Aug 25 to Sept 17, 2021.

²⁶ Prince George’s County Circuit Court (Land Records) 1884-1885) JWB 4, p. 0700, MSA CE 64-35.

Included in This Subdivision.”²⁷ The map makes no mention of the property being burial grounds.

Overview of Findings

The current owner, Elias-Bachrach, does not want to maintain the property and wants to give it to an organization that will maintain the site. With no markers, other than the remains of a fence, questions remain about how to define the maintenance and preservation of this family cemetery as well as how descendants and community members could engage in this preservation process.

While records currently list the site as a cemetery, an additional step in protecting and preserving the site involves recognition on the Maryland Inventory of Historic Properties (MIHP). Submitting an MIHP form is an opportunity for gathering and consolidating information on the cemetery’s historical significance and demonstrating the site’s importance to the surrounding area. Additionally, receiving MIHP recognition could open funding opportunities for maintaining, protecting, and preserving a historic site.

The MIHP process is also an opportunity to engage with the Gray family descendants and foster a stakeholder community for the cemetery’s preservation and maintenance. Raising awareness and gathering local community support to preserve the cemetery could also be addressed with historical markers and signage indicating the significance of Gray Family Cemetery.

²⁷ *Suburban Estates, Surratt’s District, Prince George’s County, MD*, March 26, 1959. W. L. Meekins, Registered Land Surveyor # 2134, 7806 Mason Street, N. Forestville, MD. Washington 28, D.C. Re. 6-6387.

Magruder Family Cemetery

The Magruder Family Cemetery is a small burial site at 4921 Smithwick Lane in Bowie, MD. The site is in the middle of the Holmehurst subdivision, section 5, and is bounded by three residential dwellings on the north, east and south sides. The cemetery is the remaining legacy of the Magruder family estate, Darnall's Grove, that once occupied 3,800-acres of the surrounding area.

Historical Context and Ownership

The family cemetery was established in 1830 after the death of the head of the first generation to own the land, Thomas Magruder. From 1801 to 1927, the cemetery and land remained in the Magruder family. Since 1830, the cemetery has accumulated 32 marked burials, with the last interment in 1957 for Thomas Nalle Magruder.²⁸

Thomas Magruder inherited the land in 1801 through his grandfather, Thomas Baldwin. Baldwin had acquired the tract of land known as "Darnall's Grove" through his first marriage to Sophia Duvall Butt, widow of Richard Butt II and daughter-in-law to Richard Butt I, who had purchased the land in 1701. The Magruder family are documented in census records as farmers who owned a considerable number of enslaved laborers between 1810 and 1860, ranging from 17 to 29 at a time.²⁹

On May 22, 1927, Thomas Nalle Magruder sold the remaining 100 acres of Darnall's Grove, including the cemetery, to William N. and Rosa M. Grimes. The deed reserves access to the site for Magruder family members via the street (Smithwick Lane).³⁰ Land transfers that follow uphold the cemetery exception made in the 1927 deed.

By 1966, under the ownership of James L. Partello Inc., the land and adjacent properties were subdivided into Section 5, Holmehurst. The cemetery lot was included in the 1966 subdivision plat, but excepted from development and (Figure 3). The site lot is not numbered but resides in block B and is adjacent to lot 18. However, the parcel layout in Holmehurst, Section 5, closed the site from street access, and the site is only accessible via land of private landowners. As the lot was not included in development, the site has been respected as a burial site and doesn't have a current owner.

²⁸ Jennifer Stabler, "Magruder Family Cemetery," Inventory (Maryland Historical Trust, n.d.).

²⁹ "Magruder Family Cemetery, Chain of Title," n.d.

³⁰ "Prince George's County Circuit Court (Land Records) 1926-127; Deed Book 288: 191" (Prince George's County, May 22, 1927), Prince George's County, MD Land Rec.

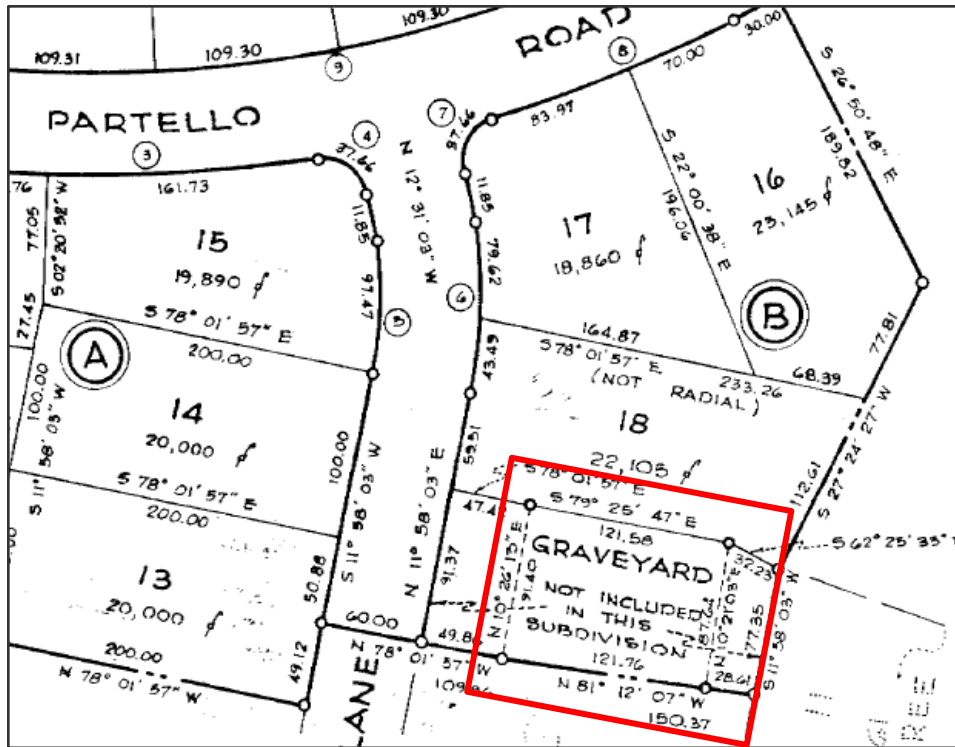


Figure 3. Holmehurst, Section 5, Book 64, Plat 83, 1966, Prince George’s County Circuit Court (Land) Records, Maryland Land Records

Site Conditions and Challenges

Current site conditions include a heavy overgrowth of trees visible from the street (Figure 4). Additionally, a recent Trader Foundation grant proposal (2017) notes extensive areas of sunken or eroded ground, damaged gravestones, overgrown invasive vines and plants and a lack of physical boundary markers.³¹ Prince George’s County has also received concerns for safety regarding the site. Most frequently, neighbors to the south are concerned about several dead trees that lean toward their property. These conditions add to site issues such as access, visibility, maintenance, ownership, and long-term care.

³¹ “Trader Foundation for Maryland Burial Sites,” *Coalition to Protect Maryland Burial Sites* (blog), accessed November 19, 2021, <https://cpmbms.org/trader-foundation/>.



Figure 4. 4921 Smithwick Ln, Bowie, MD, Google Maps, 2021

Overview of Findings

As a burial ground for generations of Magruder family members, Magruder descendants are the site's primary stakeholders. Currently the site is overgrown and under-maintained due to lack of clear ownership and regular care. The site is significant for its history in Maryland land use and 20th century subdivision as well as its role in slavery within the state under Magruder ownership. The cemetery is eligible for grant opportunities from the Coalition to Protect Maryland Burial Sites, the Trader Foundation, and other funding opportunities by similar organizations. The site's integrity is protected under Maryland State Burial Law.

In 2017, the Magruder Family Cemetery received a grant from the Trader Foundation for Maryland Burial Sites, an organization overseen by the Coalition to Protect Maryland Burial Sites. A Magruder descendant in Virginia applied for the grant. The grant states the intention to hire a surveyor to clearly designate site boundaries, hourly laborers to clear and maintain the site seasonally, fill sunken and eroded areas, and repair and clean head and footstones.³² However, since being awarded the grant, it is unclear whether Magruder descendants or hired laborers have undertaken any such work.

Primary stakeholders in the cemetery are Magruder descendants who still access the site. For example, in 2010, a large gathering of Magruders visited the site as part of a family reunion, and occasional maintenance is overseen by a Magruder descendant who lives in Virginia. For many years, adjacent property owners to the north regularly maintained the site. However, those homeowners moved in 2014, and the site has been largely uncared for since.

³² "Trader Foundation for Maryland Burial Sites."

Prince George’s County and the state of Maryland are also stakeholders in the property, which speaks to the area’s land history, patterns of suburbanization, and ties to slavery. The county is also the main recipient of concerns regarding the site and its condition, primarily put forward by adjacent residents. Though not currently cared for, there is potential to develop community or neighborhood interest in the site and its maintenance. Creating awareness through a historical marker for the cemetery may engage community members. In addition, neighbors have shown an ongoing concern for the state of the site, providing avenues to create greater investment in the site within the community.

Maryland Burial Law prohibits actions that destroy, alter or disturb burial plots and sites unless necessary for preservation and maintenance.³³ Under the Maryland Real Property Code, a county or corporation can request permission from the owner of a burial site to assist in its maintenance and preservation.³⁴ As there is no current owner of the Magruder Family Cemetery, Prince George’s County might assume ownership for temporary care until ownership can be established. Additionally, the Abandoned Property Act and Regulations of Maryland may be applied for the county to acquire the title.³⁵

Conclusion

Initial analysis of the historical context and current site conditions demonstrate unique challenges related to establishing ownership and maintenance of the Gray and Magruder Family Cemeteries. Key findings present how the historical significance of both cemeteries offers opportunities to raise awareness and leverage support from descendants and community members in forming plans to preserve and maintain each site.

³³ “Maryland Burial Law,” §10-404 (2018),
https://mht.maryland.gov/documents/PDF/research/Burial_Law.pdf.

³⁴ “Maryland Real Property,” § 14-122 (2020),
https://mht.maryland.gov/documents/PDF/research/Burial_Law.pdf.

³⁵ “Abandoned Property Act and Regulations of Maryland,” § 17-101 (n.d.),
https://www.marylandtaxes.gov/unclaimed-property/static_files/Abandoned_Property_Act.pdf.

Recommendations

The following recommendations address preserving the Magruder and Gray Family Cemeteries, specifically site survey and documentation, increasing site visibility, encouraging community and descendant interest and collaboration in providing maintenance, establishing an oversight board or committee and applying for grant funding.

Site Survey, Documentation and Research

Site survey and documentation should be the initial step in addressing the sites. This step would include recording the number and location of burials, either marked or unmarked. There are some discrepancies in the number of known burials and marked graves. Ground Penetrating Radar (GPR) or Light Detection and Ranging (LIDAR) should be considered in establishing a firm number of burials. Additionally, this step should establish a site boundary that includes all burials.

A main issue regarding the sites is low visibility. From information gathered in the site survey, physical boundary markers should clearly and visibly define the cemetery. The sites are also hidden from street-view by overgrowth. A historical marker to identify the sites and their significance to local history may be helpful in increasing awareness and visibility. Increased awareness is key to successfully achieving prolonged interest in their care.

The importance of a site survey, documentation and research is emphasized in the case study of the Third Street Cemetery. Poor record-keeping of the location and number of burials proved problematic and allowed developers to disturb the site multiple times. To avoid such disturbances and for the sake of thoroughness, survey and research should complement the written and physical record regarding burial counts and locations on a site.

Increase Visibility and Awareness of Cemeteries

A cemetery commission or organization should be established to help assign ownership and stewardship. For example, regarding funding and preservation, a collaboration between Magruder descendants and community members is recommended to discuss ownership, maintenance, and long-term funding issues.

The Bennett Family Cemetery demonstrates the importance of surveying and recording site boundaries to define and protect the site area. In this case, a primary steward and stakeholder worked to ensure the cemetery was fully represented on a plat for a proposed adjacent subdivision development. Without such efforts, it is likely that some of the site would have been lost.

Establish Oversight Boards and Committees

Louisiana's cemetery board works to find owners and groups that can help maintain sites. Maryland could establish something similar. This project is focused on cemeteries in Prince George's County and a similar process might work at the county level. A county board or group could oversee these sites and other neglected cemeteries in the county.

Friends of Historic Riverview Cemetery in Wilmington, Delaware and the Huguenot Cemetery Restoration Committee demonstrate the success achieved by creating such cemetery boards to oversee a site's proper and long-term care. These organizations include community members, descendants and members of local preservation, historical and genealogical societies.

Grant Funding Opportunities

Grant funding is also offered as a resource for preservation. Organizations such as the Trader Foundation and Preservation Maryland offer grant funding to preserve and maintain burial sites. Such grants should be applied for and undertaken by a group, committee or organization dedicated to the cemetery's care. As demonstrated by the 2017 Trader Foundation grant for the Magruder Family Cemetery and as discussed in the case studies, adequately administering and maintaining cemeteries is difficult to achieve at the individual level.

The case study of Huguenot Cemetery provides an example for successfully applying for and using grant funding for site preservation. The cemetery obtained a survey and planning grant from the Bureau of Historic Preservation, Historical Resources Division in 1992. From this grant, a long-term master preservation plan was established and implemented to achieve proper maintenance and restoration of the historic cemetery.

Conclusion

During the Fall 2021 semester, the research team conducted a two-phase study that included a case study analysis of maintenance and preservation plans for unmaintained cemeteries and a policy analysis of state legislation focused on neglected cemeteries. The study's second phase incorporated analysis findings to build recommendations for two family cemeteries in Prince George's County, Maryland.

The recommendations for the Gary and Magruder Family Cemeteries emphasize the importance of site surveying and documentation to gather information about the cemeteries and their existing conditions. Initial research and documentation of both cemeteries would provide additional opportunities to increase visibility and raise awareness.

Another recommendation focuses on grant funding opportunities in formulating maintenance and preservation plans for these cemeteries. Lastly, the research team suggests establishing an oversight board or committee to assist in monitoring and facilitating maintenance and preservation of the Gray and Magruder Family Cemeteries.

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