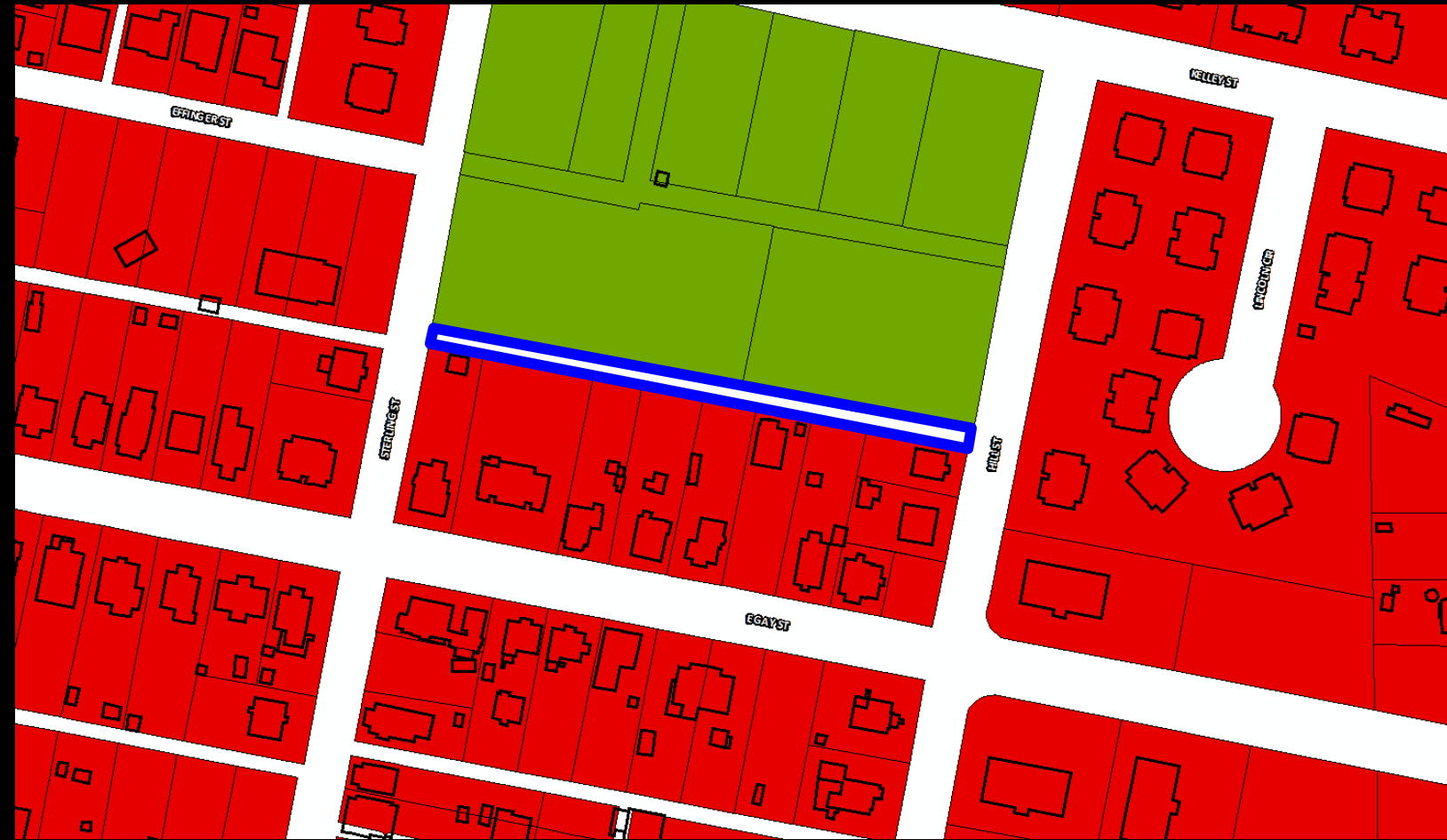




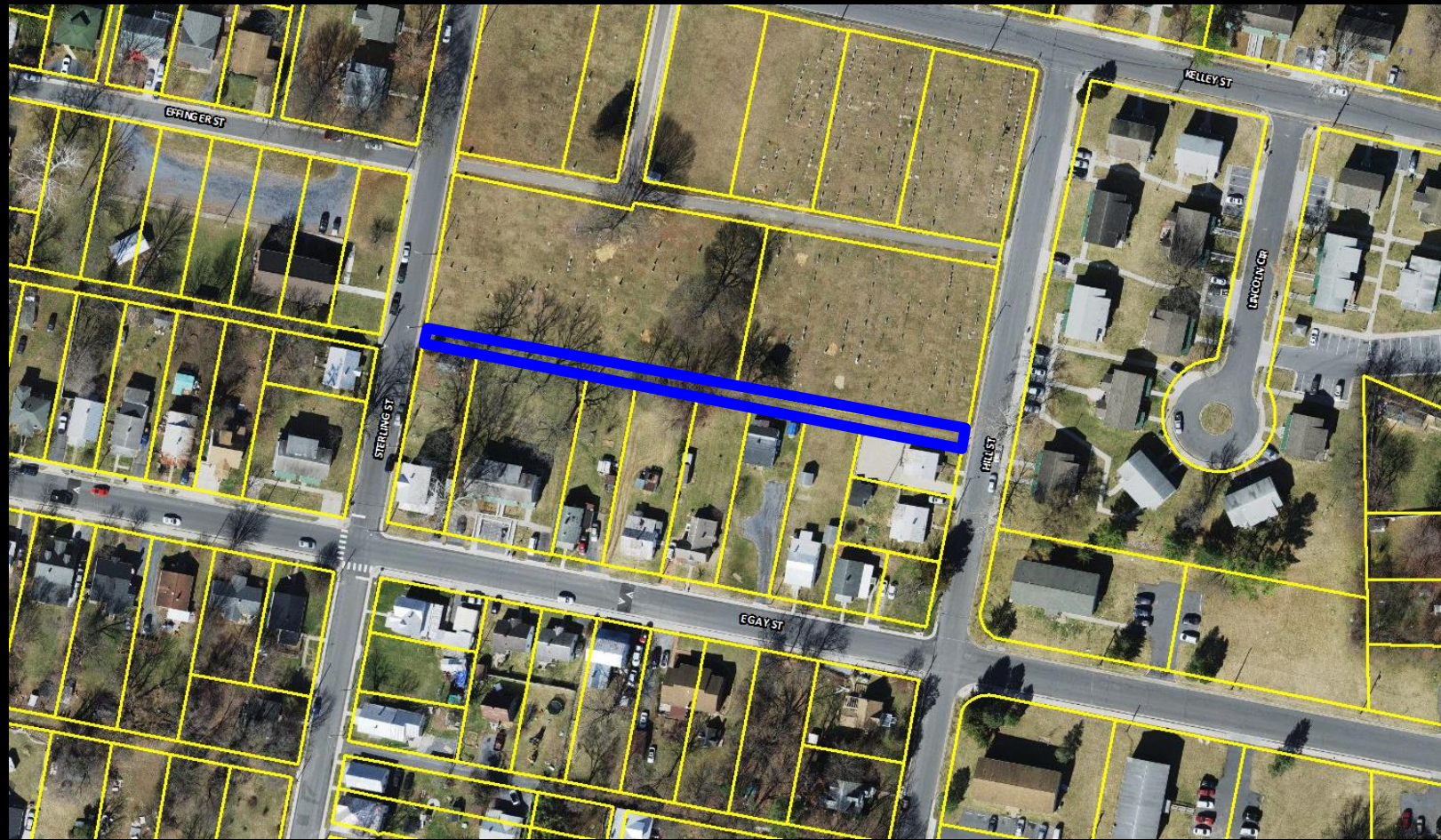
# Alley Closing Adjacent to Newtown Cemetery



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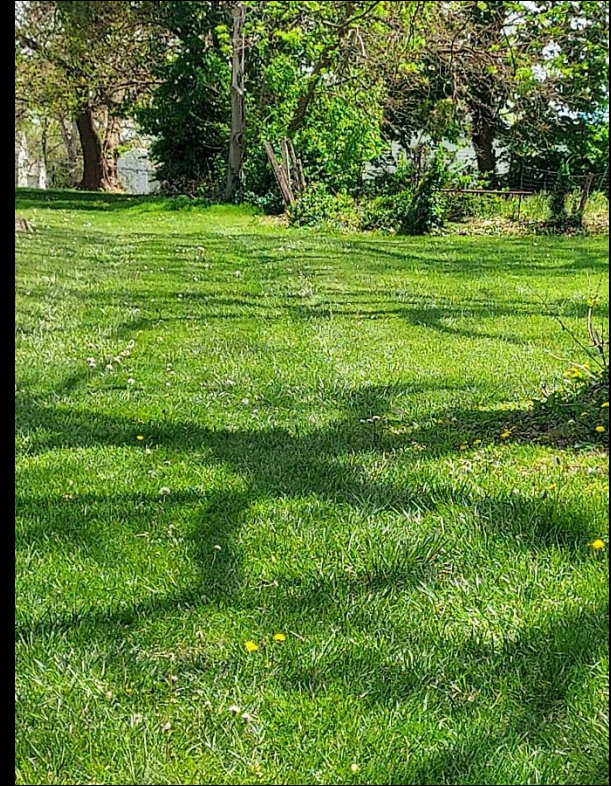
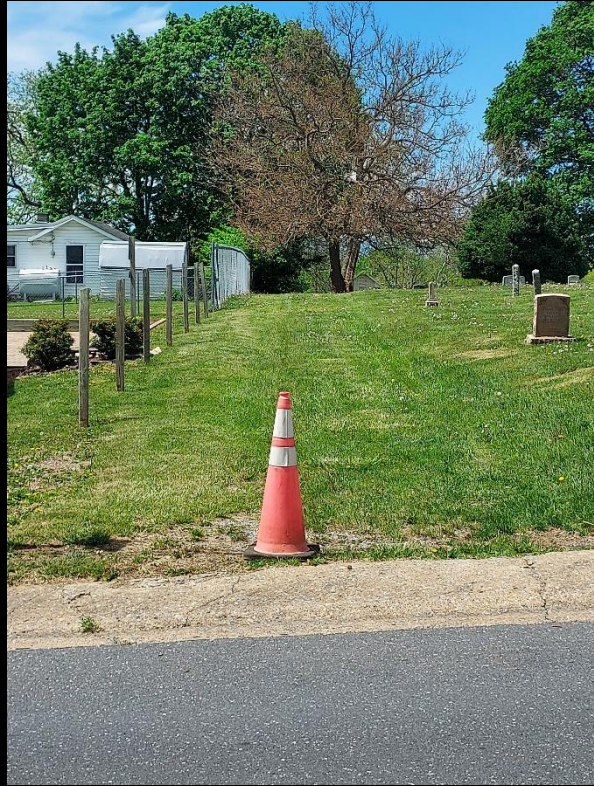
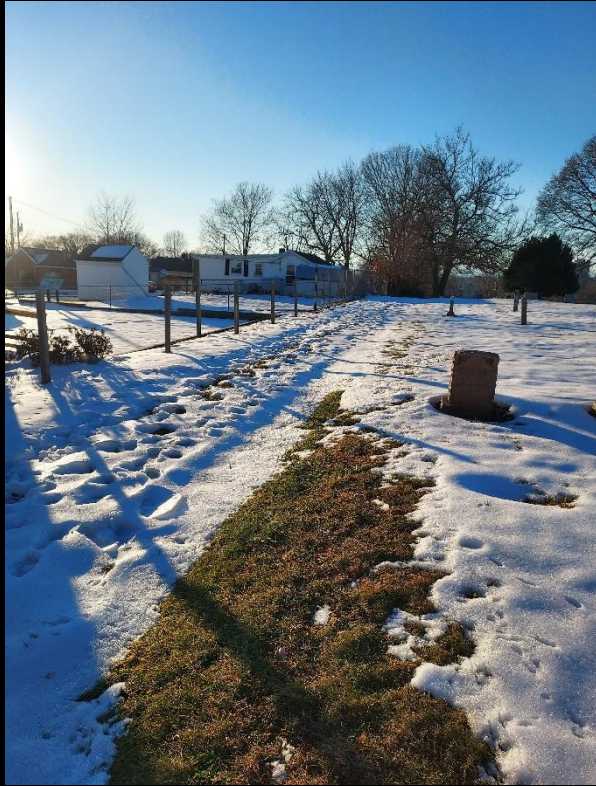
1. **Pre-1888:** Prior to March 5, 1888, Virginia did not have a subdivision ordinance. Any public rights-of-way recorded prior to this date are public easements or rights of passage. They follow the common law rule: In the absence of evidence to the contrary, the fee is presumed to be in the abutting landowners.<sup>1</sup>

2. **Early Subdivision Act (1888 – 1928):** From March 5, 1888 until June 17, 1928, a subdivision created a public easement or right of passage, as before; however, the underlying fee remained in the dedicator of the subdivision, his heirs or assigns. Determining the present owner of the land for these paper streets and alleys could require extensive title searching.

3. **Post-1928 Subdivision Act:** Beginning June 17, 1928, recording a plat transferred, in fee simple, any portion of the land set aside for streets or other public use and created a public right of passage over that land. The City owns these paper streets and alleys.

<sup>1</sup> *Bond v. Green*, 189 Va. 23 (1949).

# The Alley

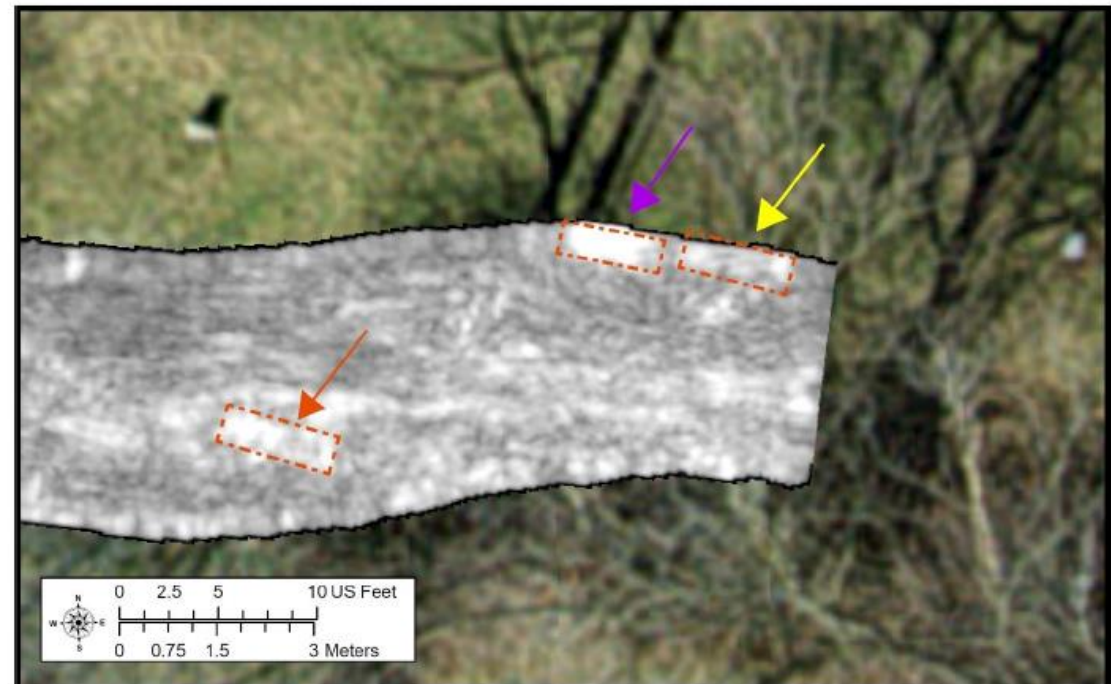
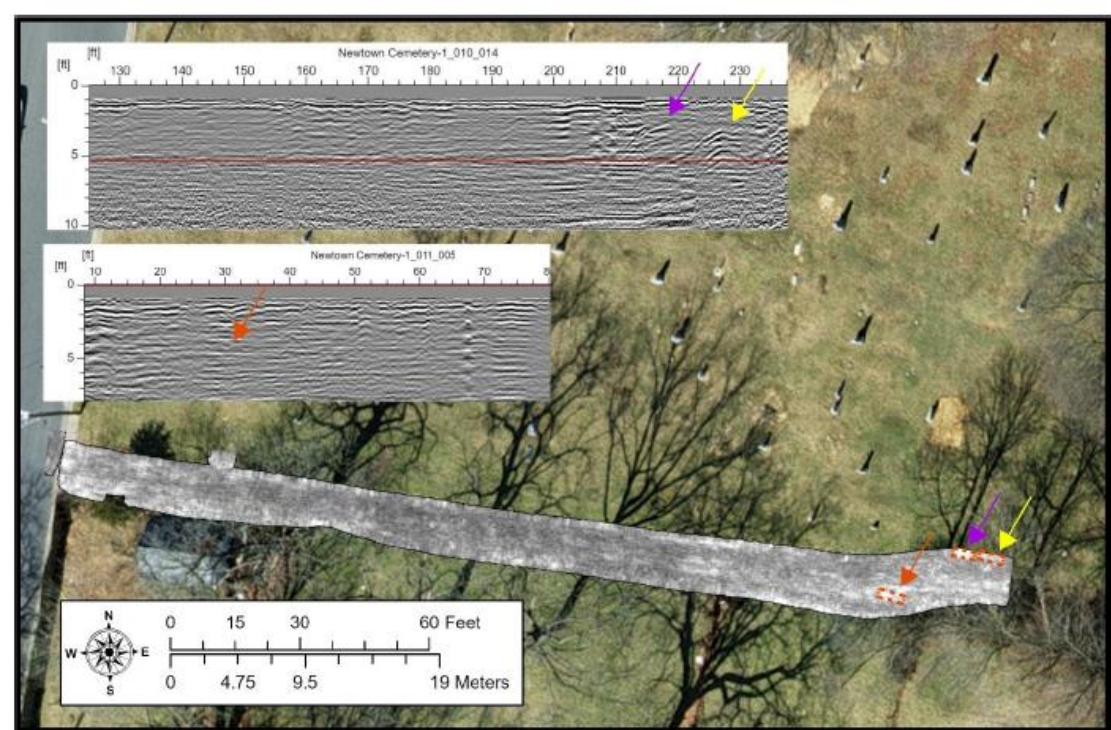


# The Alley



- Preserve any existing unmarked graves.
- Expand Newtown Cemetery for burials.
- Expansion would require SUP.
- Applicant would have to secure title before applying for a SUP.

April 2025: Ground Penetrating Radar (GPR) identified 3 potential unmarked graves in or near the alley.





Map Numbers: 33-(K)-12, 13, 14, 15, 16, 17, 18 & 19

Present Owner: Newtown Cemetery

See Hastings Deed Book 1, Page 1 for Subdivision Plot of the Zirkle Addition.

See Deed Book 98, Page 420 for Subdivision Plot of the Hill-top Addition.

See Deed Book 3212, Page 580 for Ordinance closing alleys in Newtown Cemetery.

Scale: 1" = 80'



Effinger Street

Sterling Street  
35' Public Right-of-Way

TM 33-(K)-1  
Crissman  
DB 4240 / 399

TM 33-(K)-3  
Franklin Heights,  
LLC  
DB 3667 / 465

TM 33-(K)-4  
Keeler  
DB 1617 / 415

TM 33-(K)-5  
Hite  
DB 987 / 559

TM 33-(K)-6  
Jennings

TM 33-(K)-7  
Minnick  
DB 1106 / 427

TM 33-(K)-8  
Stroop  
DB 2668 / 117

TM 33-(K)-11  
Shenandoah Valley  
Black Heritage  
Project  
DB 4904 / 115

Lot 48  
TM 33-(K)-14  
DB 19 / 180  
Zirkle Addition  
Lot 49  
TM 33-(K)-15  
DB 19 / 180

TM 33-(K)-13  
DB 61 / 236

Lot 2  
TM 33-(K)-16  
DB 117 / 508

Lot 4  
Hill-top Addition  
TM 33-(K)-17  
DB 117 / 508

Lot 6  
TM 33-(K)-18  
DB 117 / 508

Lot 8  
TM 33-(K)-19  
DB 117 / 508

N 79°15'22" W

17' Alley

499.72' (total)

3.882 Acres  
(Total)

S 79°14'56" E  
291.45'

S 78°52'37" E  
210.96'

N 11°59'33" E  
152.28'

Hill Street  
40' Public Right-of-Way

Kelley Street  
33' Public Right-of-Way

Kelley Street  
50' Public Right-of-Way

Simms Ave.  
30' Public Right-of-Way

IPF - Iron Pin Found  
IPS - Iron Pin Set

| LINE | BEARING       | DISTANCE |
|------|---------------|----------|
| L1   | N 10°59'22" E | 9.97'    |
| L2   | S 10°59'22" W | 18.43'   |
| L3   | S 78°43'15" E | 20.75'   |
| L4   | S 11°25'55" W | 10.00'   |
| L5   | S 10°44'38" W | 17.00'   |
| L6   | N 05°22'55" W | 17.74'   |

# Recommendation

Staff recommended denial of the request. However, this does not mean the status quo of the use of the alley should be maintained.

**Option #1:** Approve as requested by the applicant.

**Option #2:** Approve the request with a 5-foot in width access easement while respecting potential identified burials.

**Option #3:** Deny the request with provisions to protect potential identified burials and public access through the alley.

**Option #4:** Table the request to allow for further research while providing temporary protections of potential identified burials.

Planning Commission (4-2) recommends approval of the alley closing request.

