

40th JUDICIAL DISTRICT COURT
PARISH OF ST. JOHN THE BAPTIST
STATE OF LOUISIANA

The Descendants Project, Jocyntia Banner,
and Joyceia Banner,

Civil Action: 77305

Plaintiffs,

v.

Division C

St. John the Baptist Parish, through its Chief
Executive Officer, Parish President Jaclyn
Hotard; St. John The Baptist Parish Council;
St. John the Baptist Parish Planning
Commission; St. John the Baptist Parish
Department of Planning and Zoning, through
its Director, Rene Pastorek,

Defendants.

**FIRST AMENDED PETITION
FOR DECLARATORY AND INJUNCTIVE RELIEF**

NOW INTO COURT, through undersigned counsel, come petitioners, The
DESCENDANTS PROJECT, Jocyntia and Joyceia Banner, who request this Court declare a
rezoning ordinance to be an absolute nullity and order ST. JOHN THE BAPTIST PARISH to
immediately remove the unlawful designation from all Parish zoning maps and documents.

INTRODUCTION

The rezoning of the tract of land at issue here for heavy industrial use was done in 1990
as part of an illegal scheme that involved extortion, money-laundering, and threats of legal action
against neighboring residents to discourage their resistance to selling their property, for which
the former Parish President was convicted in 1996 by a federal jury and sentenced to nearly five
years' imprisonment.

The corrupted deal fell apart two years after the rezoning ordinance was passed and the
land has since been used for agricultural purposes, but the ordinance remained on the books.
Now, a new heavy industrial facility is seeking to make use of the decades-old illegal rezoning,
posing an imminent threat to the health, safety, general welfare, culture, property, and due
process rights of the residents of Wallace, as well as to potential burial sites of people once
enslaved there, two national historic landmarks, and even Lac des Allemands.

NATURE OF THE ACTION

1. This is a proceeding for declaratory and injunctive relief to declare a juridical act an absolute nullity because it derogates from laws enacted for the protection of the public interest. La. Civ. Code art. 7. A claim that an act or obligation is an absolute nullity never prescribes and may be brought by anyone. La. Civ. Code arts. 2030, 2032.

PARTIES

2. Petitioner, the DESCENDANTS PROJECT, is an organization based in Wallace, Louisiana, committed to the intergenerational healing and flourishing of the Black descendant community in the Louisiana river parishes. Two of the co-founders, Jocyntia and Joyceia Banner, grew up and reside in Wallace, own a small business, and work in the area immediately adjacent to the tract of land that has been improperly and illegally zoned for heavy industrial use.

3. Petitioner Jocyntia (“Jo”) Banner is a resident of Wallace and owns and operates the Fee-Fo-Lay cafe which sells goods made from ancestral family recipes and presents the Afro-Creole history of the region through the lens of their own family oral histories. Her residence and cafe are located next to the tract of land at issue here that was re-zoned in the 1990s. She and her sister Joy Banner were children at the time the land was rezoned and witnessed a key actor in the conspiracy working to assist the company with the buyout of their family’s property.

4. Petitioner Joyceia (“Joy”) Banner is a resident of Wallace who also lives and works next to the tract of land at issue here. Along with her sister, Jo, Joy Banner also witnessed a key actor in the conspiracy to rezone the land in 1990 working to assist the company with buying her family’s property to make way for the industrial development.

5. Defendant ST. JOHN THE BAPTIST PARISH (“the Parish”) is a political subdivision of the State of Louisiana and a governmental entity capable of suing and being sued.

6. Jaclyn Hotard is President of the Parish and as such is chief executive officer of the Parish responsible for carrying out the policies adopted by the parish council and for the administration, direction, and supervision of all parish departments, officers, agencies, and special districts, and for seeing that all laws, provisions of the Parish’s Charter and acts of the council subject to enforcement by her, or officers subject to her direction or supervision, are faithfully executed.

7. Defendant ST. JOHN THE BAPTIST PARISH COUNCIL (“the Parish Council”) is a duly elected body and governing authority of the Parish. The Parish Council is vested with

the authority to exercise all legislative power, including the enactment of zoning ordinances, and to conduct investigation of parish affairs and inquiries into the conduct of any department, office, agency, or special district of the parish, and is capable of suing and being sued.

8. The St. John the Baptist Parish Planning Commission exercises powers authorized by state law for planning and zoning commissions.

9. Rene Pastorek is director of the Department of Planning and Zoning in the Parish and as such oversees the day-to-day administration of the Parish's zoning and land use regulations.

JURISDICTION AND VENUE

10. This Court has broad subject-matter jurisdiction over all civil matters pursuant to La. Const. Art. 5, Sec. 16, and under La. Code of Civ. Proc. Art. 2 to adjudicate matters arising under the Louisiana Constitution of 1974, including in particular Art. I, §§ 2 (due process), 3 (individual dignity), 4 (property), and Art. XII, Sec. 4, governing preservation of cultural origins, as well as Louisiana's laws governing zoning, land use, unmarked burials, and absolute nullities.

11. Venue is proper in this Court under La. Code of Civ. Proc. Art. 42 because Defendants are domiciled here.

FACTS

I. Ordinance 90-27 Was Both a Product of, and Integral to, an Illegal Extortion and Money-Laundering Scheme.

12. On April 25, 1996, a federal jury convicted Lester Millet Jr. of extortion, money-laundering, and violation of the Travel Act for acts he committed while he was President of St. John the Baptist Parish in connection with the attempts by Formosa, a Taiwanese corporation, to locate a heavy industrial facility in Wallace. *See Minutes of Jury Verdict, April 25, 1996, United States v. Millet, 2:95-cr-00187, United States District Court, Eastern District of Louisiana, annexed hereto as Exhibit A; United States v. Millet, 123 F.3d 268 (5th Cir.1997), annexed hereto as Exhibit B.*

13. Millet was sentenced to 57 months imprisonment. *United States v. Millet, 123 F.3d at 268.*

14. Millet had been charged with and convicted of violations of 18 U.S.C. §§2, 1951 (extortion), 1952 (the Travel Act), and 1956 (money laundering), "resulting from the misuse of his official position as Parish President of the St. John the Baptist Parish." *Id.*

15. In upholding his conviction, the panel of the United States Fifth Circuit Court of Appeals recounted key facts from the trial record that led to the jury's verdict.

16. The facts cited by the Court of Appeal pertained to Millet's efforts to assist Formosa in locating a rayon pulp facility on the large tract of land in Wallace at issue here (hereinafter "the Wallace tract") to profit off of the siting of the facility through a backroom deal with a friend, and further abusing his authority as Parish President "to push through the needed rezoning" and issue "threats" of legal action against neighboring property owners to get them to convey their land to Formosa. *Id.*

17. Specifically, the federal Court of Appeals recounted that:

...[M]illet engaged his friend Durel Matherne, a licenced [*sic*] real estate broker who was not actively engaged in a commercial real estate business, in a scheme in which Millet would arrange for Matherne to become the exclusive broker for the sale of the Whitney. In exchange for Millet's influence as President of St. John the Baptist Parish to secure his contract to broker the property, Matherne was expected to share with Millet the sizeable (\$479,000) commission he earned from the sale of the Whitney.

Millet, identifying himself as a high ranking public official, then met with Walter Barnes and informed him that the Whitney Plantation could be sold to Formosa for the rayon pulp facility and insisted that Matherne be the broker for the sale. Barnes agreed to the arrangement. ***Millet then promised Formosa that if it purchased the Whitney Plantation for the rayon facility, he would use his authority to push through the needed rezoning and would ensure Formosa obtained the necessary deep water access for the facility. Millet planned to do this by "convincing", through threats of expropriation if necessary, owners of property adjacent to the Whitney (Wallace tracts) to convey their property to Formosa.*** He also promised Formosa to assist in obtaining the necessary EPA permits.

In May, 1989, Formosa and the Barnes family signed a contract for the sale of the Whitney. ***Formosa's purchase was conditioned on being able to obtain the Wallace tracts and necessary rezoning.***

Apparently aware of the Whitney's shortcomings and the conditional nature of the contract, Shell contacted Virginia Simons, the development manager for the Port of South Louisiana, to reconvene negotiations between *271 Shell and Formosa for the sale of the Willowbend site. Simons arranged a meeting in which she, a Shell representative, and Millet discussed Shell's interest. In that meeting, Millet verbally abused both of them for "messing with his deal". Shortly afterwards, Millet tried to use his official position as Parish President to have Simons fired and later arranged to withhold \$1,000,000 in funds from the port.

In April, 1990, the sale of the Whitney to Formosa was completed and Millet immediately demanded a \$200,000 share of the \$479,000 commission from Matherne. To effect this transfer, Millet bought an undeveloped piece of real estate (Highway 51 Property) for

\$200,000 and, against the advice of Matherne's attorney and within two weeks conveyed one-half of it to Matherne for \$200,000.

In September, 1990, Matherne submitted a proposal for a contract to provide wood chips to the proposed Formosa facility. On learning of Matherne's proposal, Millet made it clear to Matherne that, even though he (Millet) had no capital to invest in the wood chip venture, he would participate with Matherne on a 50–50 basis. ***Millet intended to contribute by using his official position to secure the lucrative contract for himself and Matherne.*** Millet further made it clear that if he was not allowed to participate, he would use his position to spoil the deal for Matherne.

Id at 270-71. (emphasis added).

18. On April 19, 1990, Millet made good on his promise to “push through the needed rezoning” when the St. John the Baptist Parish Council voted to rezone the Wallace tract, which included the Whitney Plantation and adjacent properties, when it passed Ordinance 90-27, annexed hereto as Exhibit C.

19. Following on the heels of the rezoning, on April 30, 1990, the owners of the Wallace tract, who had entered into an agreement to sell the property to Formosa a year earlier on the condition that the land would be rezoned and adjacent properties could be acquired by Formosa, completed a cash sale of the property to the Format Corporation, a wholly owned subsidiary of Formosa. See Cash Sale, annexed hereto as Exhibit D.

20. On May 1, 1990, Walter Barnes Jr. filed an instrument of ratification with the St. John the Baptist Parish Clerk of Court ratifying the cash sale of the property to the Format Corporation that was signed by his father, who had been given his Power of Attorney. See Instrument of Ratification, annexed hereto as Exhibit E.

21. The Cash Sale was entered into the clerk’s official record book as Instrument No. 131544 and the Ratification of the Sale was entered into the book as Instrument No. 131545.

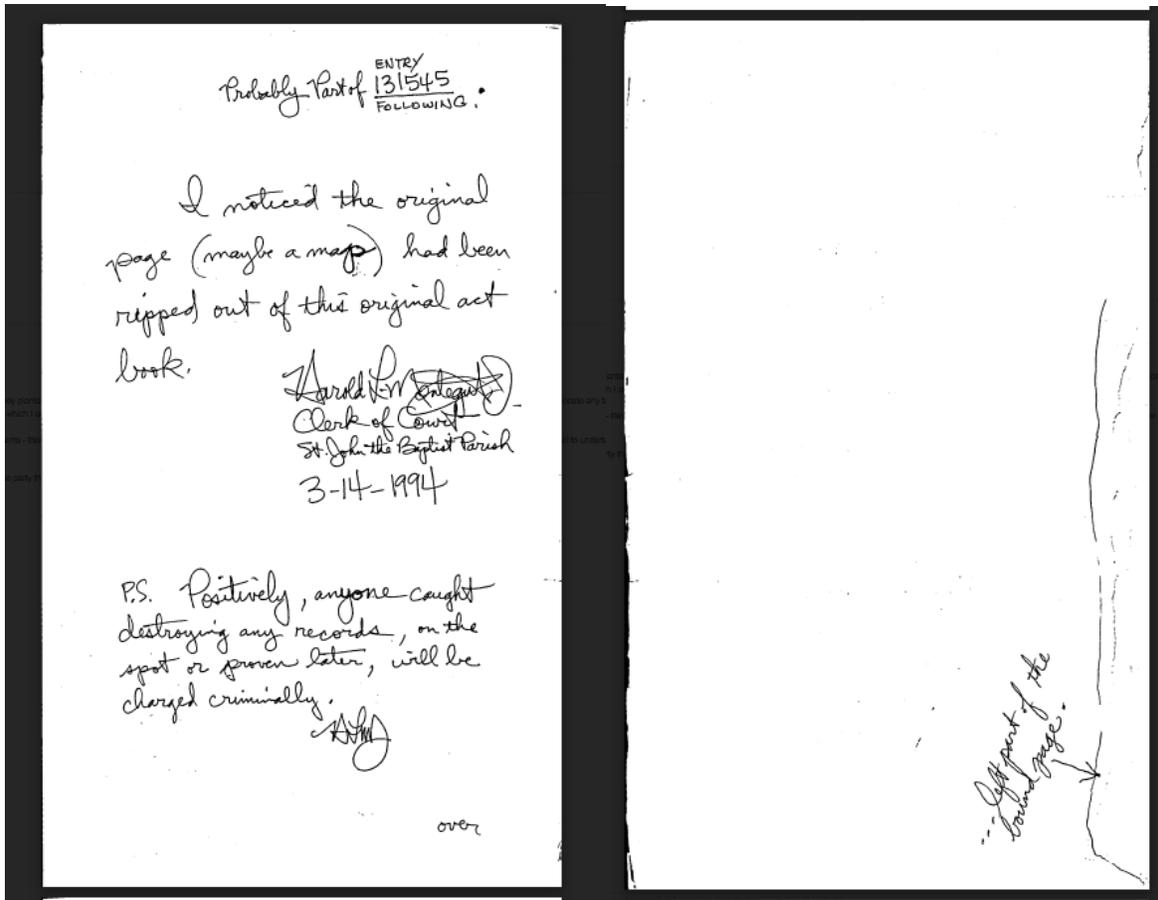
22. Both documents refer to a map of a boundary survey made by Daryl B. Patin, C.E. that was supposed to be attached as an exhibit. See Exhibit D, Appendix at p. 24 and Exhibit E at p. 38.

AND which Property is also shown and described according to the Boundary Survey made by Daryl B. Patin, C.E. attached as Exhibit B as follows:

Source: Excerpt from Instrument 131545, Book 264/534, ratifying the sale of Whitney Plantation by Walter Barnes, Jr. to Format Corp, annexed hereto as Exhibit E.

23. Mysteriously, this survey map is missing from this record.

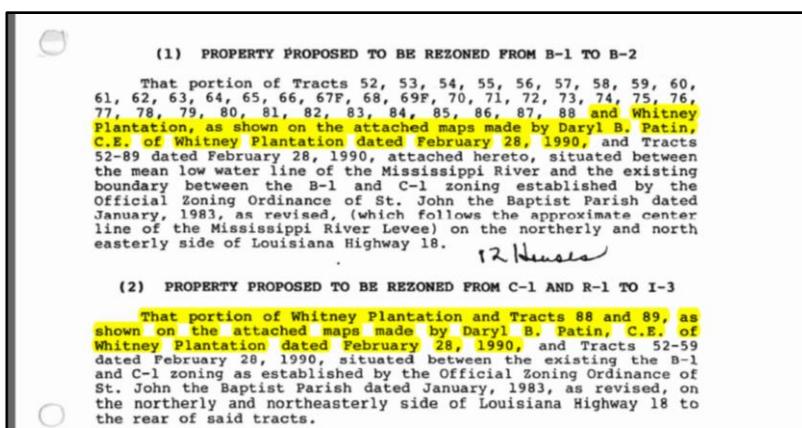
24. Four years after the instrument was filed, the then-Clerk of Court, Harold Montegut, entered a hand-written notation in the file stating that he “noticed the original page (maybe a map) had been ripped out of the original act book.” Montegut added a warning: “P.S. Positively, anyone caught destroying any records, on the spot or proven later, will be charged criminally.” See below and exhibit E, annexed hereto.



Notation by Clerk of Court to Instrument 131545, Book 264/534, documenting a missing page. Annexed hereto as Exhibit E.

25. Justin Kray, an urban planner and cartographer providing expert analysis to the Descendants Project, noted the missing document and notation and inquired of the current Clerk, Ms. Eliana Defrancesch if there was any duplicate of the record. She replied that there was not. See Affidavit of Justin Kray, annexed hereto.

26. This missing map was also a crucial component of Ordinance 90-27. A document annexed to the ordinance delineated which properties and portions of properties were being rezoned through the ordinance and how, and specifically relied on the survey maps “made by Daryl B. Patin, C.E. of Whitney Plantation dated February 28, 1990.” See Ordinance 90-27, Exhibit C.



Excerpt from document annexed to Ordinance 90-27, describing the particular rezoning of numerous tracts of land.

27. No maps were produced in response to records requests by the Descendants Project for all records relating to the zoning of this tract of land.
28. As discussed more below, there are a number of current parish maps showing conflicting designations for this tract of land and portions thereof.
29. While there are conflicting current cartographic accounts and the original survey map upon which the rezoning was based cannot be found, the ordinance purportedly rezoned a large portion of the property for heavy industrial use, or I-3 zoning.
30. Ordinance 90-27 also contained an amendment to the proposed zoning map for the property which required that “where ever [sic] an I-3 zone abuts a R-1 zone there shall be an I-1 buffer 300 feet within the I-3 zone separating the I-3 from R-1.” Exhibit C.
31. According to Sec. 113-364 of the Parish Code, I-1 industrial districts are intended to “provide for the location and grouping of uses to a type designed for light manufacturing, processing, storage and warehousing, wholesaling and distribution.”
32. The insertion of the 300-foot buffer requirement was a dramatic departure from a much larger distance requirement that was supposed to apply to I-3/heavy industrial zones – 2,000 feet from residential dwellings with a density of 1 dwelling per acre gross area. *See* St. John the Baptist Parish Code of Ordinances, Sec. 113-410.
33. The minimal 300-foot buffer put forth in Ordinance 90-27 is further evidence that the rezoning of this tract for heavy industrial use was not appropriate for the area and that it was being corruptly “pushed through.”
34. The rezoning was also passed over fierce opposition from the community. Contemporaneous reporting of the events reflected the intense opposition that also appears in the official minutes, with one report describing Parish authorities as “taken aback” by the level of opposition in the community. *See* Exhibit F.

35. One community member described the effect of the rezoning as a “Genocide” of the Wallace community. *See, e.g.*, Minutes of St. John the Baptist Planning Commission Meeting of March 26, 1990, annexed hereto as Exhibit G.

36. Community members showed up to express their opposition at these public meetings, not knowing at the time that the deal was already fixed given Millet’s behind-the-scenes corruption and his assurances to Formosa that he would use his position to push the ordinance through.

37. According to media reporting at the time, one council member, Clinton Perrilloux, testified in a court proceeding that he had been concerned about the environmental impact of the facility but relied on assurances from Millet and two other council members who had traveled together to Taiwan that the Formosa facility would be “high tech.” See Exhibit H.

38. Millet also spoke at the meetings and hearing urging the rezoning for the Formosa facility; community opposition was disregarded and overridden by the Planning Commission and Parish Council.

39. At the April 19, 1990, meeting of the Parish Council, the Council abruptly cut off the public hearing on the ordinance during the portion of the meeting when community members were expressing their opposition to the rezoning. *See* Minutes of St. John the Baptist Parish Council Meeting, April 19, 1990, annexed hereto as Exhibit I.

40. The Council members abruptly voted to end the public hearing when one opponent of the rezoning began to speak, because even though she was on the list of speakers in opposition, she had not spoken “when her time was allotted” [*sic*]. *Id.*

41. Because of the upset reaction of those in attendance to the closing of the hearing, the Council took a short recess. When it returned, it voted to pass Ordinance 90-27. *Id.* Minutes of April 19, 1990 hearing, Exhibit I.

42. As can be seen on the ordinance, Lester Millet Jr. signed it. Exhibit C.

43. Millet’s signature was not merely ceremonial. Under the Parish’s Home Rule Charter, as Parish President, he had the power to approve or veto the ordinance and thus played a mandatory, integral part in the process of the ordinance becoming law in the Parish.

44. Article IV, Sec. C(1) of the St. John the Baptist Parish Home Rule Charter required that any ordinance passed by the Parish Council be signed by the council secretary and

chairman of the council and presented to the Parish President within five days of the ordinance's adoption.¹

45. Article IV, Sec. C(2) required that the parish president return the ordinance to the council secretary within ten calendar days of its passage with his approval or disapproval.

46. If the Parish President approved it, or did not explicitly disapprove it, the ordinance would become law on the fifth day following publication in the official parish journal.

47. Article IV, Sec. C(3) provided that any "[o]rdinance and resolutions vetoed by the parish president shall be presented to the council at its next regular meeting" at which point the council could determine whether to override the president's veto.

48. On May 29, 1990, Lester Millet's company, Millet Enterprises, completed the purchase of separate land that was used to launder the kickback from co-conspirator Durel Matherne by subsequently selling a portion of that property at an inflated rate to Matherne's wife. *See* Act of Sale to Millet Enterprises, annexed hereto as Exhibit J, and Act of Sale from Millet Enterprises to Nancy Torres Matherne, annexed hereto as Exhibit K.

49. On December 27, 1990, Formosa sold itself the Wallace Tract along with numerous tracts of land it had been buying up around the tract. *See* Act of Sale, Format Corporation to Formosa Corporation, signed by Alden Andre, for both buyer and seller, annexed hereto as Exhibit L.

50. At the hearings in 1990, residents spoke out about their concerns about heavy industrial rezoning, the effect on their property and the possibility of having to relocate.

51. One resident advised the Planning Commission that Formosa had not offered to relocate her and "the price offered for her land was too low" and "[i]f her land is zoned industrial, she will lose her property." Planning Commission Minutes, Exhibit G.

52. Another resident told the Planning Commission, "My daughter is frightened because she does not know if we will have to move. I have no answers to give my child." *Id.*

53. Other residents living next to the Wallace tract still recall the trauma of being told they had to sell their property to make way for the Formosa facility and that they had only three months to find another place to live.

¹ St. John the Baptist Parish Home Rule Charter and Code of Ordinances available at https://library.municode.com/la/st._john_the_baptist_parish/codes/code_of_ordinances?nodeId=PTICH_ARTIESH_ORU.

54. Harriet and William Banner remember the fear, anxiety, and uncertainty at the time about what would happen to their home and their family's future, when it was made clear to them they had no choice in whether to see their property. Affidavit of Harriet Banner, annexed hereto.

55. Durel Matherne, Millet's accomplice in the money laundering scheme, visited Harriet Matherne's mother almost every day while Harriet and William were at work, where he pushed the Formosa deal. *Id.*

56. Matherne also attempted to endear himself to Harriet and William's daughters, Jo and Joy Banner, who were around 11-years-old at the time and stayed with their grandmother after school, to get them excited about moving to a "new house." *Id.*

57. Sometimes he was accompanied by Alden Andre, Formosa's vice president. Affidavit of Joy Banner, annexed hereto.

58. When their grandparents expressed concern about what would happen to their home after they left, Joy recalls Matherne told them it wouldn't be destroyed because it was a nice house and Formosa would use it as their corporate offices. *Id.*

59. The prospect of having to move was upsetting and traumatic for their family, who had lived there for generations going back at least 100 years. Affidavit of Harriet Banner.

60. If they had had to sell their property and move to another town it would have broken up their extended family, who all lived in the neighborhood, as they were faced with the prospect of having to go separate ways to find new places to live. *Id.*

61. Harriet and William had four children at home and needed to find a place big enough to support Harriet's mother and father, who was in a wheelchair. They looked for a way to keep their entire extended family together. *Id.*

62. They stopped a renovation in their house that they had recently begun, and lived for several weeks without carpeting, thinking they would have to move soon. *Id.*

63. They spent weeks looking for a place to live that would accommodate their family and struggled to figure out how to make the transition the least disruptive for their children, trying to find a way to avoid having them change schools and completely upending their lives and family support systems. *Id.*

64. They also mourned the prospect of moving away from the levee which held such a significant place in their lives - where people met daily to swim, fish, shrimp, visit, and play.

Id.

65. Fr. Vincent J. Dufresne, who currently serves as pastor of several churches in St. James Parish but who grew up near the Wallace tract in St. John the Baptist Parish, also recalls the painful impact on his family when they were forced to sell their home and property to the Louisiana Department of Transportation and Development (DOTD) to accommodate the Formosa facility. *See* Statement of Fr. Vincent J. Dufresne, annexed hereto.*

66. At the time, Dufresne was advised by people within the DOTD that the plans for on and off ramps for the Gramercy Bridge had been changed and expanded to accommodate Formosa's concerns about truck access to their facility. *Id.*

67. The changes meant that the number of families affected by the DOTD's exercise of eminent domain went from about 10 to about 40. *Id.*

68. Fr. Vincent Dufresne's family home, which had been in their family for over 100 years, was among those affected. His grandmother and aunt, who had expected to be able to live out their days in their home, were displaced. They later passed away in a nursing home. *Id.*

69. They had hoped to be able to move the house to another location but were told they would not be able to obtain permits. They later learned the house had been purchased from the state by former Governor Edwin Edwards, who later had it moved and sold at a profit. *Id.*

70. When Fr. Vincent Dufresne's family learned later of the corruption and abuse of power driving the plans, they felt "betrayed and denied the representation expected of our elected civil servants." *Id.*

71. He believes that the area was targeted for the development of this facility because the majority of those impacted were Black. The fewer white families, like his, that were affected could be used to "cloud" this fact. *Id.*

72. Dufresne believes a "lot of damage was done to our community by all of this" and that they "lost neighbors and friends and a sense of community." *Id.*

73. Ultimately, the Formosa deal fell through but not before the company bought up dozens of properties from neighboring landowners through its subsidiary called the "Format

* Due to logistical constraints, Fr. Vincent Dufresne was unable to ensure his statement was notarized before having to travel. Plaintiffs will supplement the petition with an affidavit as soon as practicable.

Corporation,” which in turn sold the properties to its other self, Formosa, as a fully-assembled tract for \$10 million. *See* Act of Sale, Format Corporation to Formosa Chemicals & Fibre Corporation, American, annexed hereto as Ex. L.

74. According to the Fifth Circuit Court of Appeals, reviewing the record of Millet’s criminal trial, “In October, 1992, Formosa abandoned its plans to construct the rayon pulp facility in part because of mounting public opposition and in part because of the activities of Lester Millet.” *United States v. Millet*, 123 F.3d at 271.

75. In the intervening 30 years since Millet pushed through the rezoning of the Wallace tract as part of his illicit scheme, the land has been used for agricultural purposes, primarily the farming of sugarcane.

76. Also, in the intervening decades, portions of the Whitney Plantation have achieved National Historic Landmark status and its Slavery Museum has become an internationally renowned destination drawing over 100,000 people per year from all over the world.

77. The Evergreen Plantation, also adjacent to a portion of the property, has also achieved National Landmark Status.

78. In the intervening 30 years, the population of Wallace has grown, and the Banners were able to continue to live in their family home where they raised their children.

79. Their daughters, Jo and Joy Banner, grew up there, went away to school and returned to start a small business, founded the Descendants Project, an organization dedicated to protecting and preserving their history and that of their community, and help build new economic opportunities.

80. Jo and Joy’s grandmother and the rest of the family were relieved and happy because they were able to stay by the levee, which had always been a part of their lives, a place where friends, neighbors, and family would gather in the evenings and on weekends when the land and river were such that you could swim and more easily fish and trap in the river. Affidavit of Harriet Banner.

II. Conflicting Zoning Maps Raise Further Questions About the Zoning Process and Status of the Wallace Tract.

81. Currently, St. John the Baptist Parish has at least four zoning maps that have been held out to the general public as official even though they contain conflicting zoning designations for the Wallace Tract and violate the Parish’s own zoning ordinances.

82. The fact that these maps conflict with each other when it comes to the zoning designations for the Wallace Tract casts further doubt as to the integrity of the zoning process in general and the status of this tract in particular.

83. The St. John the Baptist Parish Code of Ordinances requires that the official zoning map of the Parish “shall be identified by the signature of the parish president, council chairman, and chairman of the planning commission...” and that it “shall be located in the parish engineer’s office.” St. John the Baptist Parish Code of Ordinances (hereinafter “Parish Code”), Sec. 113-143(a) and (b)(2).

A. Map 1 – The 2012 Signed, Physical Map in the Parish Office

84. In 2012, it was discovered that the official parish zoning map signed by the former parish president could not be located. *See* Resolution 12-07 adopted by the Parish Council on February 14, 2012, annexed hereto as Exhibit M.

85. To replace the lost map, on February 14, 2012, the Parish Council passed a resolution adopting a “new official zoning map.” *Id.*

86. Sec. 113-143(b)(3) of the Parish Code of Ordinances provides that when “the official zoning map, or any portion thereof, becomes damaged, lost, destroyed or difficult to interpret by reason of the nature or number of changes, the parish council may, by resolution, adopt a new official zoning map which may correct drafting errors or omission, **but shall not amend the original official zoning map.**” (emphasis added).

87. Nevertheless, in 2012, when the Parish Council was considering the resolution to adopt the new official zoning map, council members made clear that “significant changes to the zoning map” “had to be made.” Excerpts of Minutes of Parish Council Meeting of Feb. 14, 2012, annexed hereto as Exhibit N.

88. Then-Council member Jaclyn Hotard asked the Director of Planning if there were “any significant changes to the zoning map that had to be made” to which the Planning Director replied, “Yes.” *Id.*

89. The Planning Director further confirmed that “[w]hen we recreated these we actually updated them so all the zoning changes that have occurred, all the ordinance changes for zoning and re-subs and that sort of thing have all been updated on this map.” *Id.*

90. When another council member sought to confirm whether the map included “all the rezonings of properties,” the Director of Planning again confirmed that it did. *Id.*

91. However, Art. IV(A)(4) of the Parish's Home Rule Charter requires that any act that "[a]dopts or modifies the official map, plot, subdivision ordinance, regulations, or zoning plan" be done by ordinance, which must be enacted pursuant to the procedures for public notice and hearings set out in Art. IV(B) of the Charter.

92. The 2012 map modified and / or amended the official map and should have been adopted by ordinance, not resolution.

93. Nevertheless, this "official zoning map" adopted on February 14, 2012, by Resolution 12-07, is now on file in the Parish office.

94. Pursuant to Sec. 113-143(b)(2) of the Parish Code of Ordinances, this map is the "final authority as to the current zoning status of all lands and waters in the unincorporated areas of the parish."

95. According to this map, the Wallace tract, which is situated between the Whitney Plantation and Slavery Museum, and the former Evergreen Plantation, both containing National Historic Landmarks, on the east side, and the neighborhoods, churches, and small businesses that make up the town of Wallace on the west side, is zoned for heavy industrial use, or I-3, as shown in red outlines in the photograph below, which is a true and correct photograph of the map on file in the Parish Office taken on October 21, 2021. *See* Affidavit of Sadé Evans, annexed hereto.



As seen on this physical map adopted by the Parish Council pursuant to Resolution 12-07 as the “new official zoning map,” the Wallace tract is depicted as I-3, heavy industrial, with no buffer between it and the residential zones.

96. If Ordinance 90-27 were a legal, valid ordinance, which it is not, and if this map is to be treated as the “final authority as to the current zoning status of all lands and waters in the unincorporated areas of the parish,” then this zone would be illegal as it clearly and directly violates the requirements of Ordinance 90-27 of a 300-foot I-1 (light industrial) buffer between the I-3 (heavy industrial) zone and residential zones. *See* Ordinance 90-27, Exhibit C.

B. Map 2 – The GIS Map

97. When this conflict was brought to the attention of the Parish’s Director of Planning and Zoning, Rene Pastorek, Mr. Pastorek stated that an online mapping system utilized

by the Parish contained what he claimed was the correct zoning designation for this tract of land. Affidavit of Justin Kray, annexed hereto.

98. According to Mr. Pastorek, the online Geographic Information Systems (GIS) version used by the Parish is the official zoning map.

99. In response to a public records request for zoning maps showing map changes, Mr. Pastorek wrote, “our official zoning map is kept electronically via Geographic Information Systems [GIS]. This map is updated following approvals of zoning map changes by the Parish Council.” See Email from R. Pastorek, annexed hereto as Exhibit O.

100. However, sec. 113-143(b)(2) of the Parish Code provides that “[r]egardless of the existence of purported copies of all or part of the official zoning map which may from time to time be made or published, [t]he official zoning map, which shall be located in the parish engineer’s office, shall be the final authority as to the current zoning status of all lands and waters in the unincorporated areas of the parish.”

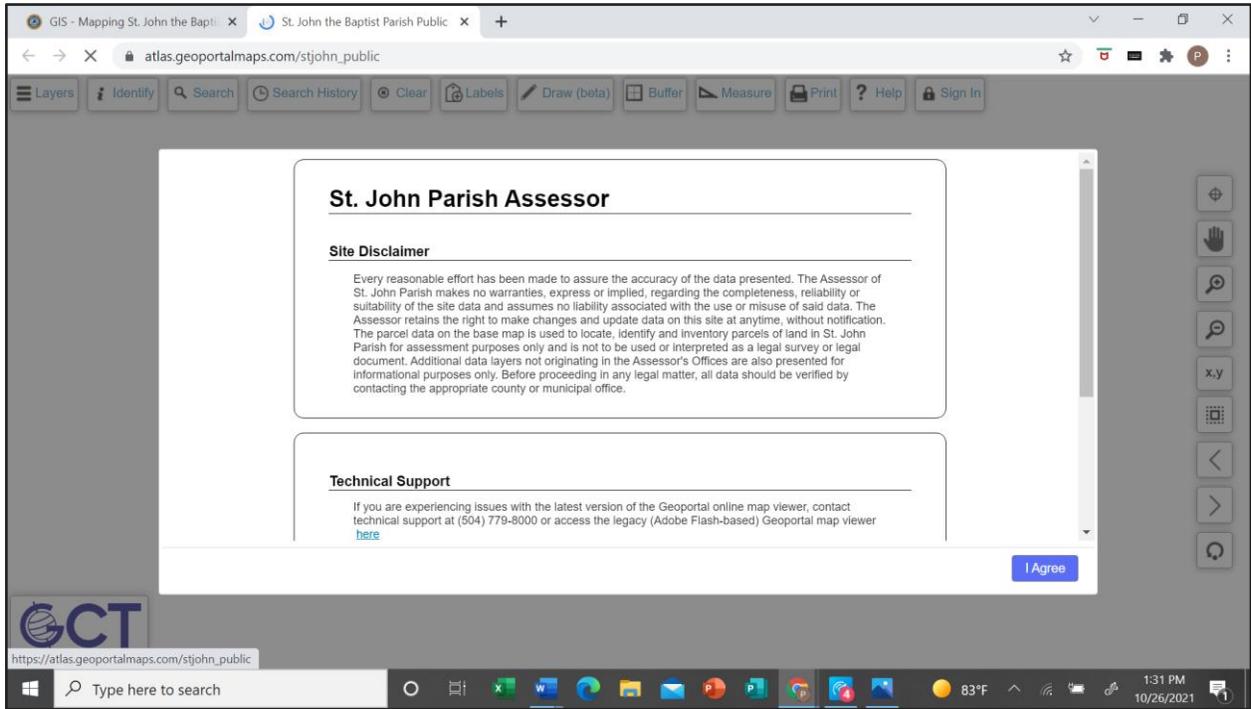
101. With regard to changes to the official map, sec. 113-143(b)(1) provides that if “changes are made in district boundaries or other matter portrayed on the official zoning map, such changes shall be entered on the official zoning map promptly after the amendment has been approved by the parish council with a revision date and zoning case number entered onto the zoning map.”

102. With regard to computerized reproductions, sec. 113-143(b) of the Parish Code provides that a “computerized reproduction of the official zoning map in whole or part, shall constitute an official zoning map when printed as a [sic] original production, printout, or graphic illustration, and bearing the signature of the planning commission or its duly appointed director or representative.”

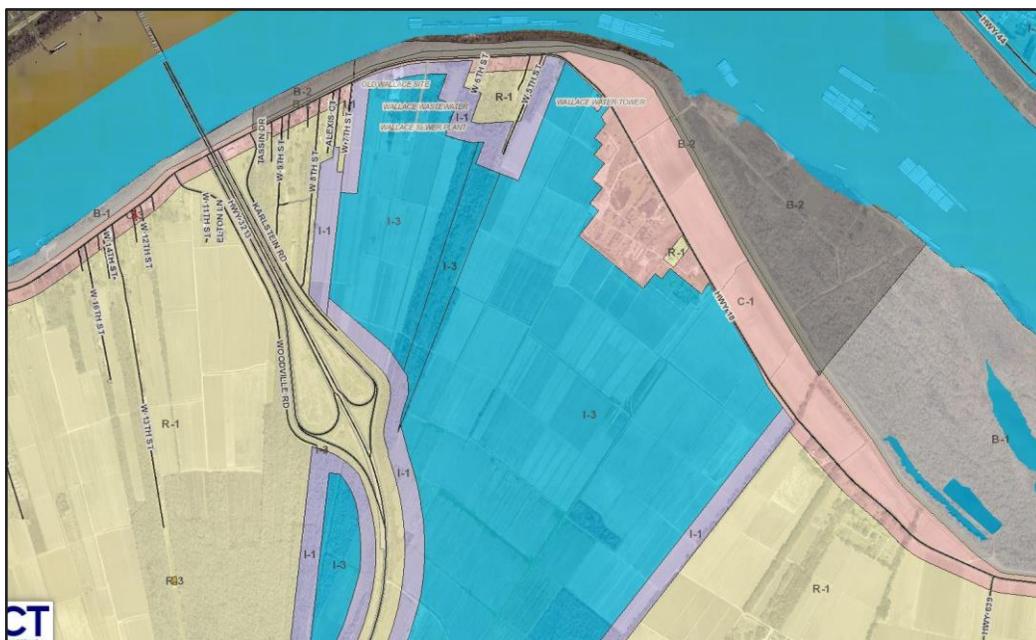
103. Not only does the GIS map lack the required signatures, a disclaimer on the webpage used to access the GIS maps expressly states that the Parish “makes no warranties, express or implied, regarding the completeness, reliability or suitability of the site data and assumes no liability associated with the use or misuse of said data.”

104. As can be seen in the screenshot of the disclaimer reproduced below, the notice further advises that the “Assessor retains the right *to make changes and update data on this site at anytime, without notification.* The parcel data on the base map is used to locate, identify and

inventory parcels of land in St. John Parish for assessment purposes only and *is not to be used or interpreted as a legal survey or legal document.*” *Id.* (emphasis added)



105. Unlike the “new official zoning map” adopted in 2012 by the Parish Council in Resolution 12-07, the GIS map of Wallace accessed through this portal shows the I-3/heavy industrial zone in Wallace to be surrounded by an I-1/light industrial zone, as shown below.



Unlike the map adopted by the Parish Council as the “official zoning map,” the Parish’s GIS Mapping System shows an I-1 / light industrial zone between the I-3/ heavy industrial and R-1/residential zones.

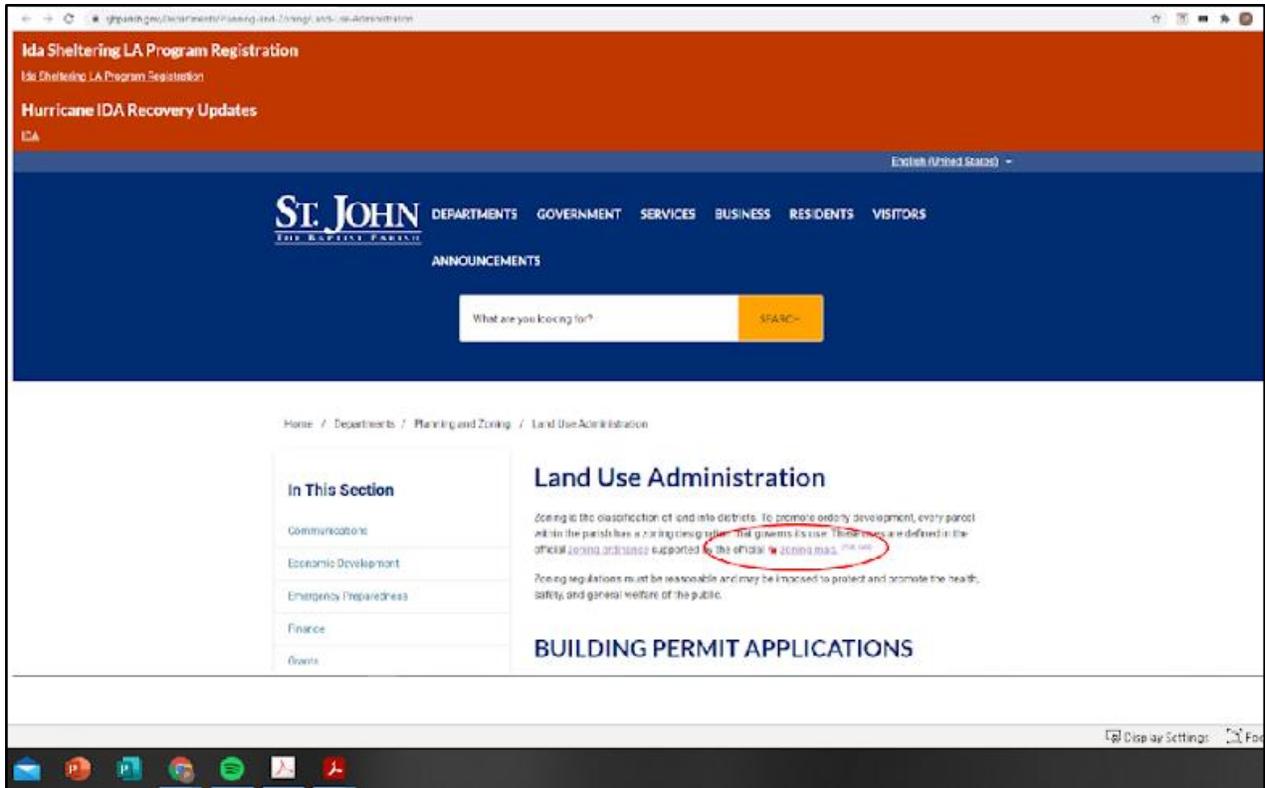
106. However, this map, as the Parish Assessor makes clear, is not the official zoning map and is not to be considered a legal document, and the accuracy of it is specifically disclaimed.

C. Map 3 – The Other Online “Official Zoning Map”

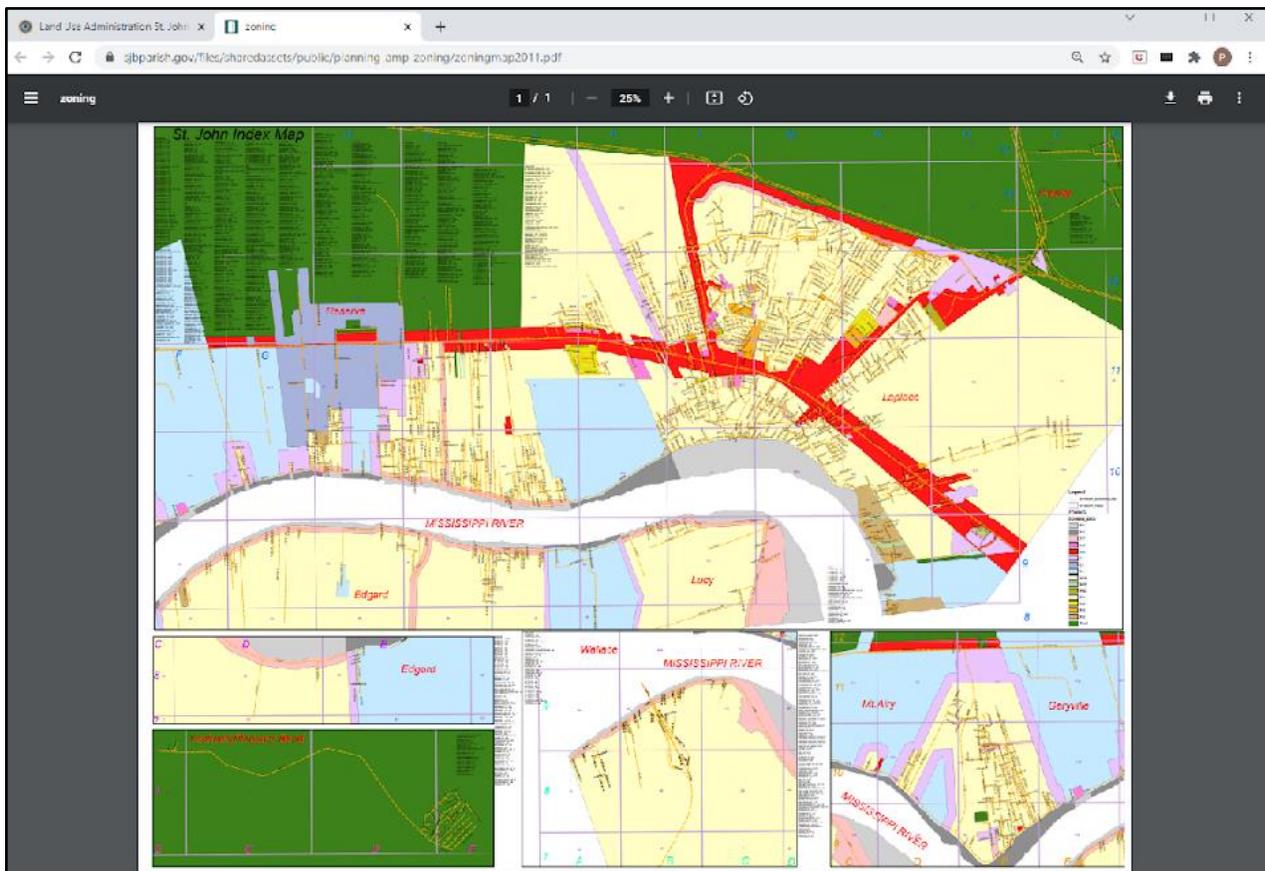
107. Further confusing matters, a different map linked from another part of the Parish’s website as the “official zoning map,” showed the entire Wallace Tract to be zoned as R-1/residential, not heavy or light industrial.

108. The Land Use Administration page of the official St. John the Baptist Parish website, accessed as recently as October 10th and 18th, 2021, linked to a map it described as “the official zoning map,” which depicts the Wallace Tract as R-1, a residential designation.

109. The Land Use Administration webpage and linked map described there as “the official zoning map” are shown below.



A true and correct screenshot of the Land Use Administration Page of the official St. John the Baptist Parish website, as of October 10, 2021, showing a link to “the official zoning map.”



A true and correct screenshot of the map linked from the Land Use Administration page of the official St. John the Baptist Parish website, as of October 10, 2021, described as “the official zoning map.” It shows the Wallace Tract to be zoned as R-1.

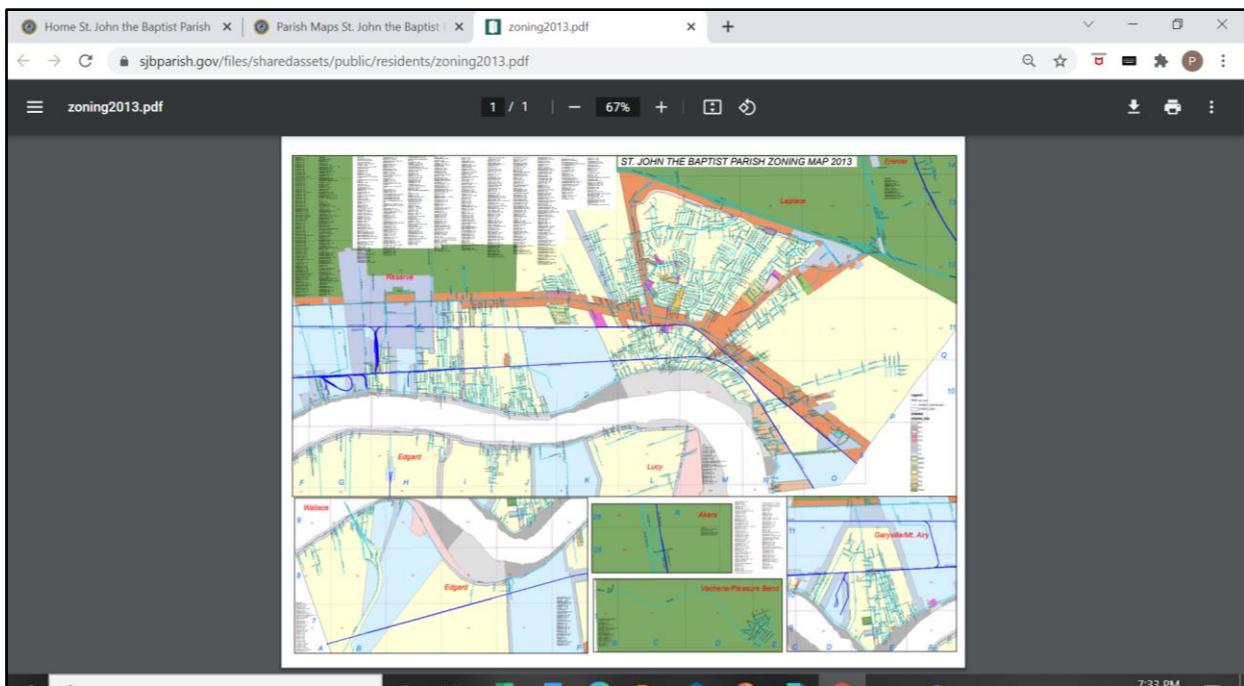
110. Justin Kray, an urban planner and cartographer providing expert analysis to the Descendants Project, asked Mr. Pastorek about this map and its inconsistency with the GIS map in a phone call on October 18, 2021. The hyperlink to this “official zoning map” was removed as of October 19, 2021. Kray Affidavit, annexed hereto.

D. Map 4 – An Online “Parish Zoning Map” for “Residents”

111. Another map linked from the St. John the Baptist Parish website shows the Wallace tract zoned as I-3, this time also without the I-1/light industrial zone.

112. From the homepage of the Parish’s website, the link for “Residents,” shows a dropdown box with a link entitled “Parish Maps,” which then leads to a page with an option to click on a link labeled “Parish Zoning Map.” Screenshots of webpages annexed hereto as Exhibit P.

113. As seen below on this true and correct screenshot taken on October 28, 2021, which is also included in Exhibit P, the map found at that link shows the Wallace tract in light blue, which is the I-3 designation, with no I-1 buffer between it and any of the residential areas.



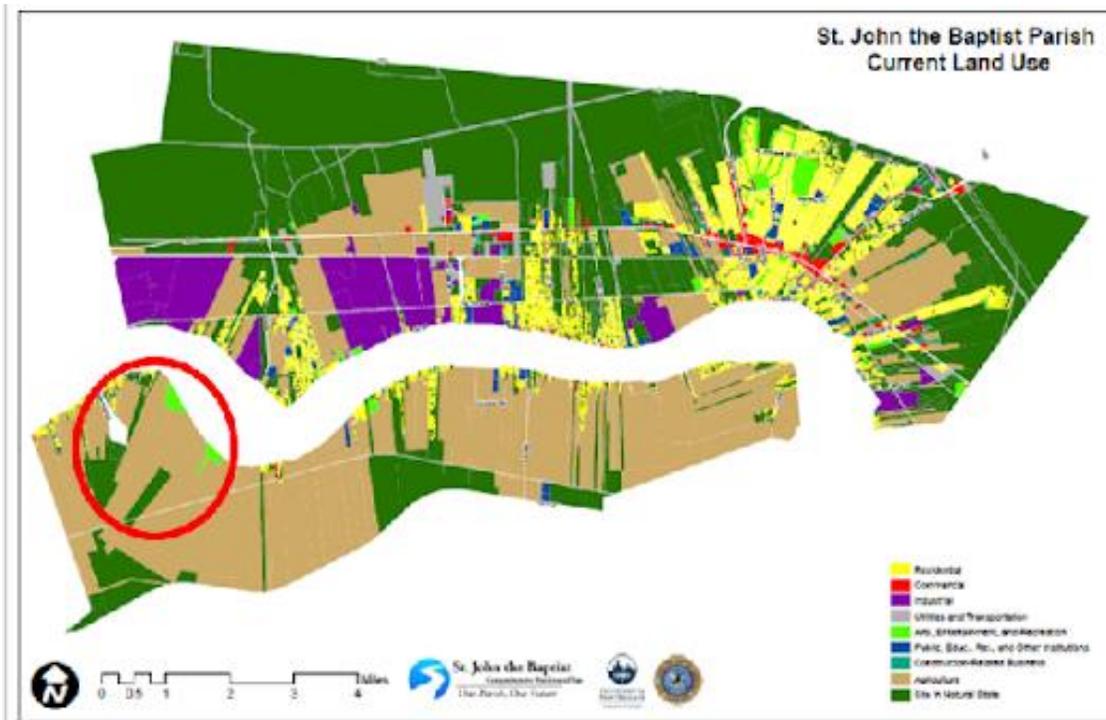
A true and correct screenshot of the map linked from the Parish Maps page for Residents from the homepage of the St. John the Baptist Parish website, as of October 28, 2021, described as “Parish Zoning Map,” showing an I-3 zone for Wallace without an I-1 zone between it and the residential zones.

E. Comprehensive Planning Maps

114. Other maps developed as part of the Parish’s comprehensive planning process add to the questions and concerns about the status and intended uses and zoning for this tract.

115. As noted above, this tract has long been used for “agriculture.” As shown in the Parish’s Comprehensive Land Use Plan (hereinafter “Comprehensive Plan”), the “Current Land

Use” map depicted the Wallace Tract as used for agriculture. The map below is found on p. 41 of the 2014 Comprehensive Plan:²

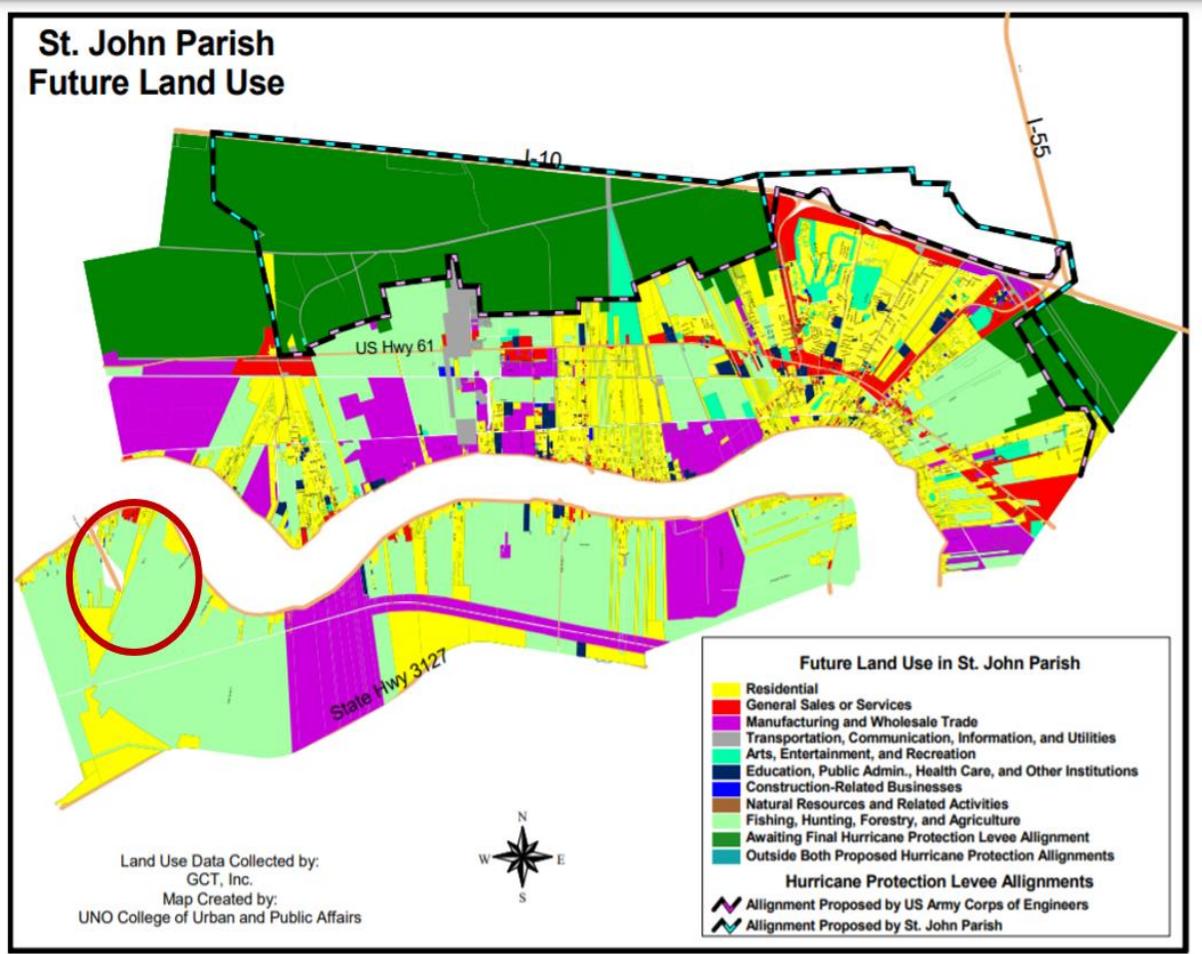


In 2014, the Comprehensive Plan depicted the Wallace Tract, shown in the red circle, as agricultural.

116. A “Future Land Use” report prepared in the early stages of the process of developing the Comprehensive Plan to provide “a vision and policy framework to evaluate future land use and development decisions,” included the map shown below, entitled “Future Land Use,” which showed the Wallace Tract would be zoned for “Fishing, Hunting, Forestry, and Agriculture.”³

² St. John the Baptist Comprehensive Land use Plan: One Parish, One Future, January 2014, available at <https://www.sjbparish.gov/files/sharedassets/public/planning-amp-zoning/sjbpcmpresilienceplan-8-18-14.pdf>. (Hereinafter “Comprehensive Plan”).

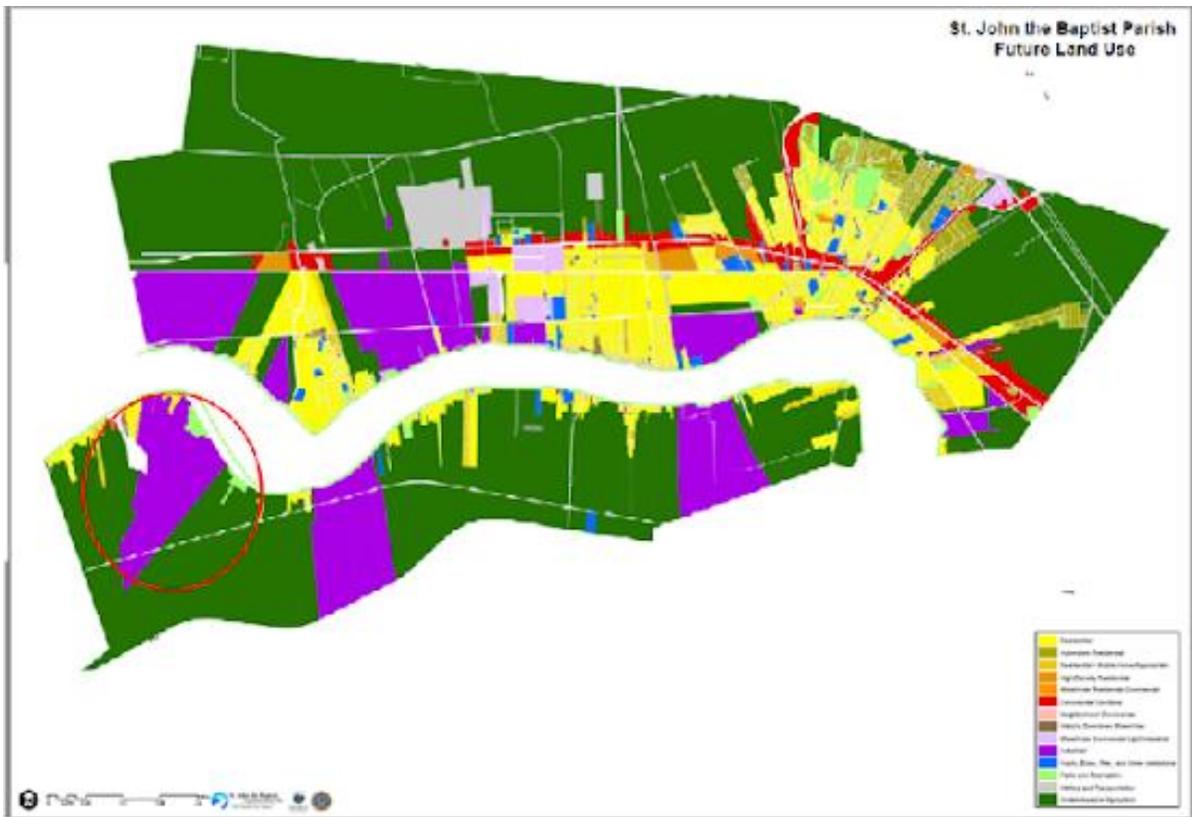
³ See *St. John the Baptist Parish Comprehensive Planning Project, Phase II, Task II, Land Use Report*, Division of Planning, University of New Orleans, available at https://www.sjbparish.gov/files/sharedassets/public/planning-amp-zoning/st_john_parish_land_use_plan.pdf.



An early report of the Parish’s comprehensive planning process envisioned the Wallace Tract would remain zoned for “Fishing, Hunting, Forestry, and Agriculture.”

117. However, in the final Comprehensive Plan submitted to the Parish in 2014, the recommended Future Land Use map had changed with regard to the Wallace tract – it depicted the Wallace Tract zoned as industrial, as shown below.⁴

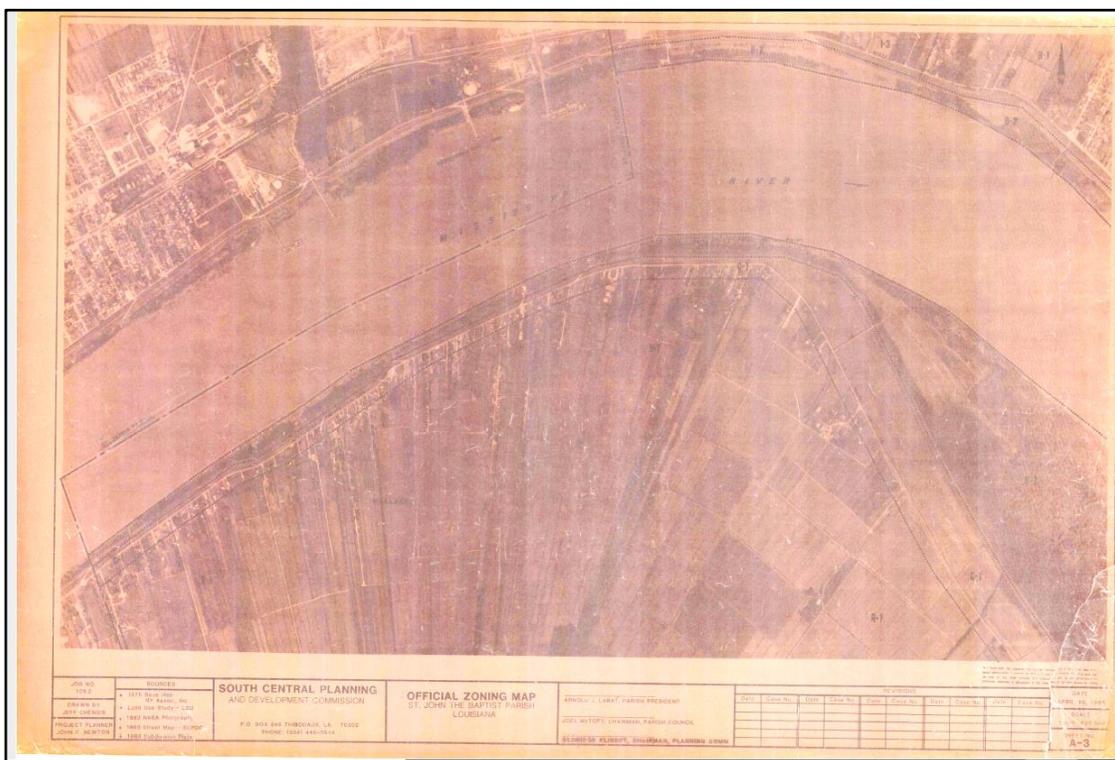
⁴ Comprehensive Plan, *supra* n. 1 at 47.



The Future Land Use Map contained in the Parish’s Comprehensive Plan, showing the Wallace Tract targeted for industrial use.

E. The Unsigned Copy of the Original 1986 Zoning Map

118. In response to a records request for “copies of any and all zoning maps that existed prior to the official zoning map adopted pursuant to Resolution 12-07” on February 14, 2012, the Parish’s custodian of records provided an unsigned copy of the official zoning map map from 1986, which had been lost. The map below shows that the entire Wallace tract was originally designated as R-1/residential, before controversial Ordinance 90-27 was passed, and long before the existence of the Parish’s various maps that show conflicting zoning designations.



III. Residents of Wallace, Neighboring Historic and Cultural Sites, and Lac des Allemands Face Potential Threat from a New Heavy Industrial Facility Seeking to Locate on the Wallace Tract.

A. Wallace

119. Wallace is home to approximately 755 people who live within about six square miles. The overwhelming majority of the people living in Wallace – 89 percent – are African American.

120. Wallace residents are facing an imminent threat to their health, safety, well-being, and property values because the tract, which has been used for farming sugarcane for years, is now being targeted as a proposed site of a massive grain elevator (hereinafter “proposed facility”).

121. Some residences would be less than 300 feet away from the proposed facility.

122. The grain elevator, proposed by Greenfield Louisiana, LLC, a company based in Denver, Colorado, would consist of 54 grain silos and a conveyor structure nearly as tall as the Statue of Liberty. The diagram below shows the size of the facility relative to the size of one the homes that would be located approximately 260 feet from the facility.

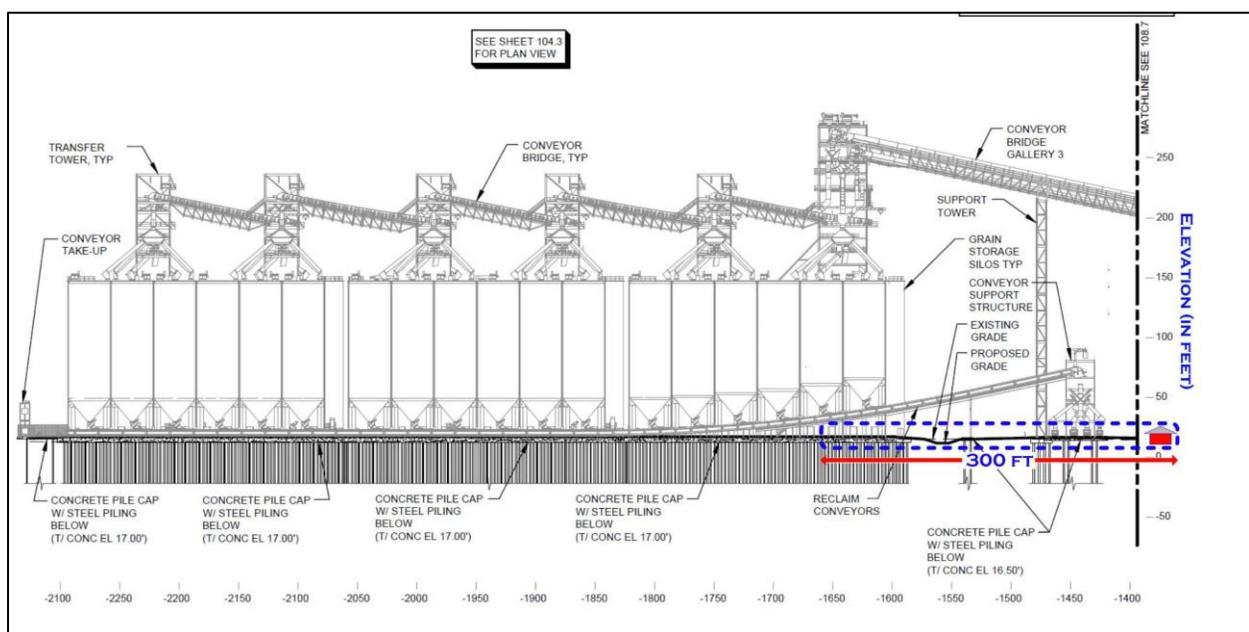


Diagram of proposed grain elevator to scale next to an average-sized home, like one of the nearby homes that would be approximately 260 feet from the facility. Kray Affidavit at ¶ ____.

123. The United States Occupational Safety and Health Administration (OSHA) has designated the grain handling industry as a “high hazard industry” that can expose individuals to “numerous serious and life threatening hazards.”⁵

⁵ Occupational Safety and Health Administration, “Grain Handling - Overview,” available at <https://www.osha.gov/grain-handling#:~:text=These%20hazards%20include%3A%20fires%20and,death%20in%20grain%20storage%20bins.>

124. Such hazards include fires and explosions from grain dust accumulation and other serious workplace hazards.

125. According to OSHA, such explosions are often severe, involving loss of life and substantial property damage.⁶

126. One of the “worst industrial disasters in modern Louisiana history” involved a grain elevator explosion in Westwego Louisiana in which thirty-six people died.⁷

127. Grain dust has been shown to cause a host of respiratory problems and conditions like asthma.⁸

128. Grain dust can also be a vehicle for other toxics to get deep into the lungs and blood stream.

129. The I-3/heavy industrial Wallace Tract sits approximately 130 yards from Fee-Fo-Lay, a small café, shown in the photo below, owned and operated by Petitioner Jo Banner.



Fee-Fo-Lay Café, located on the corner of Alexis Court and Hwy. 18 in the town of Wallace, is owned and operated by Jo Banner, co-founder of the Descendants Project, who also lives near-by. The proposed grain tower would loom over the cafe approximately 130 yards to its east (left in photo) and would block out the morning sun.

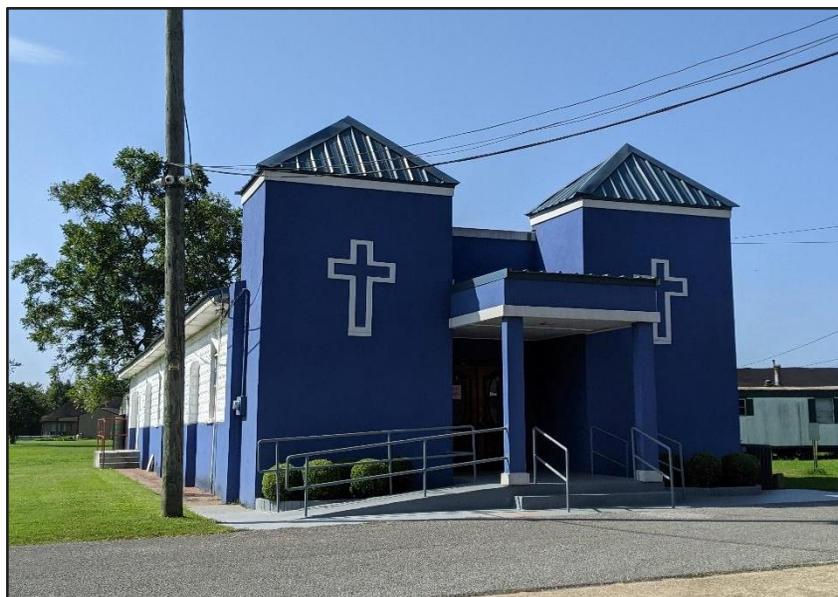
⁶ *Id.*

⁷ Richard Campanella, *Westwego Continental Grain Elevator Explosion*, 64 *Parishes*, April 9, 2021, available at <https://64parishes.org/entry/westwego-continental-grain-elevator-explosion>.

⁸ *See, e.g.*, Centers for Disease Control and Prevention, The National Institute for Occupational Safety and Health, Grain Dust: OSHA comments from January 19, 1989 Final Rule on Air Contaminants, <https://www.cdc.gov/niosh/pel88/graindst.html#:~:text=1%2D3%20and%20Rankin%20et.symptoms%20of%20chronic%20respiratory%20disease>.

130. The proposed facility would tower over the café from the east, in the space to the left of the café in the above photo, and would completely blot out the morning sun from this café which frequently serves customers from all over the world who come to visit and reflect.

131. The Parish's 2014 Comprehensive Plan also identified Woodville Baptist Church, which is located near the Wallace Tract and proposed facility, as a place of historic interest.⁹



Woodville Baptist Church was a site identified in the Parish's Comprehensive Plan as a noteworthy historic site and is located in the shadows of the would-be proposed grain elevator.

132. Congregants at the Woodville church and other places of worship would also be impacted by the proposed facility.

B. National Historic Landmarks

133. The Whitney Plantation and Museum is located on the eastern side of the Wallace Tract. The Whitney is the only plantation in the region and in the state with a sole focus on the life and labor of those enslaved in southeastern Louisiana.

134. The Whitney has become nationally and internationally renowned for its mission to educate visitors and the public at large about slavery.

135. It has been designated a national historic landmark and its 16 original structures including an 18th century main house and original cabins where the enslaved people were forced to live are part of a National Historic District.

136. The Whitney Plantation is an important cultural and historical landmark for the local community of Wallace and people descended from those who were enslaved on that plantation.

⁹ Comprehensive Plan at p. 210.

137. Prior to the COVID-19 pandemic, over 100,000 people visited the Whitney annually.

138. Any heavy industrial facility located in the Wallace Tract would likely have adverse impacts on the National Historic Landmark.

139. The facility currently proposed for the site has already been the subject of concern by federal and state historic preservation authorities.

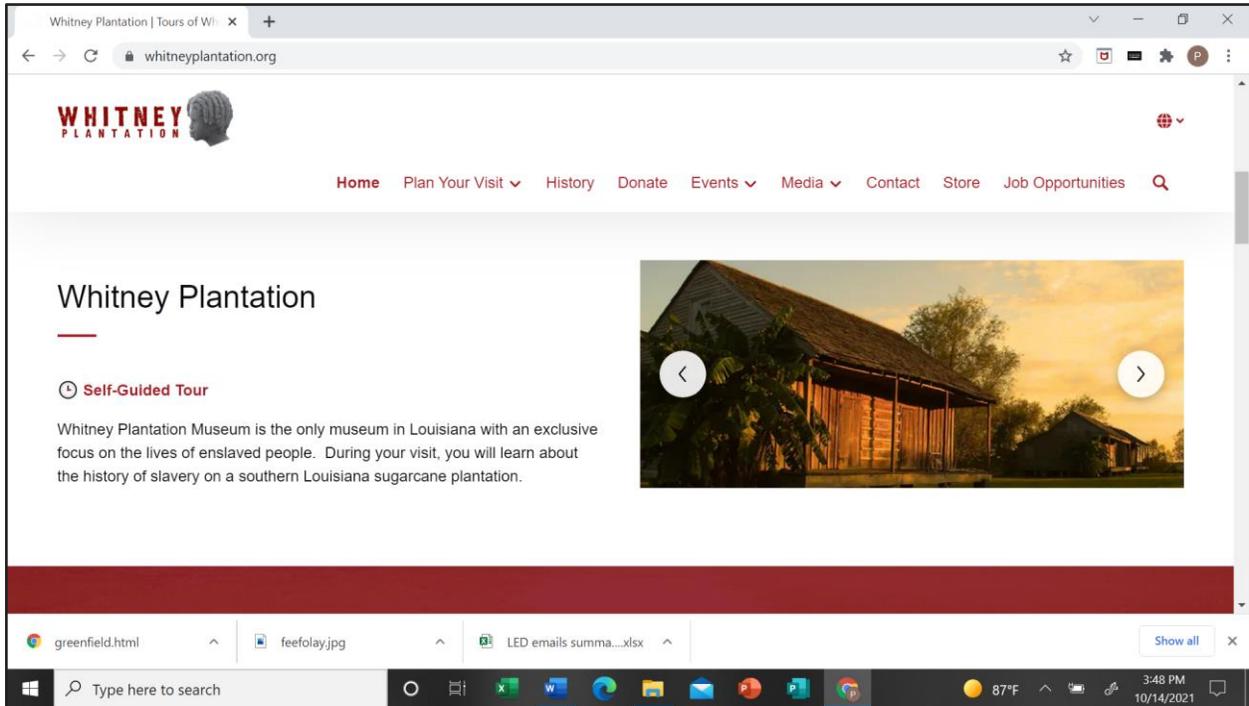
140. Because the proposed facility requires a permit from a federal agency – in this case the U.S. Army Corps of Engineers – there must be a consultation under sec. 106 of the National Historic Preservation act to determine whether the project will have impacts on historic landmarks or sites that are eligible for listing on the National Register of Historic Places.

141. As part of that consultation, the Louisiana State Historic Preservation Officer (SHPO) reviews archaeological investigations and surveys to determine whether there would be impacts to historic sites or cultural resources.

142. On January 27, 2021, the SHPO notified the principal investigator of the archaeological firm hired by the company pursuing the proposed facility of its concerns about adverse impacts to the “Whitney Plantation NHL [National Historic Landmark] site.” *See* Letter from State Historic Preservation Officer to Dr. Bretton Somers, annexed hereto as Exhibit Q.

143. In the letter, the SHPO expressed concern about the “proximity of the proposed development to the Whitney Plantation NHL site” because it “appears the new facility will be less than one miles [*sic*] away from the NHL and the multiple towers associated with the facility will be more than 200 feet in height, which is more than double the height of the mature tree lie that exists between the project and the NHL.”

144. The SHPO also expressed concern about “odors due to off gassing that may be associated with the new facility.”



The public website of the Whitney Plantation and Slavery Museum. The site contains a national Historic district and is an important resource for African American history and documentation and preservation of the experiences of those enslaved on plantations in southeastern Louisiana. State historic preservation experts have expressed concern about adverse impacts of the proposed facility on the landmark.

145. The federal agency tasked with undertaking a review of the project for adverse effects to historic properties also expressed concern about the proposed facility’s impacts.

146. On March 30, 2021, the federal officer charged with compliance with Sec. 106 of the NHPA for the U.S. Army Corps of Engineers communicated to the company their concerns about the “proposed project’s vicinity to the Whitney Plantation Historic District.” See NHPA Section 106 Compliance Review, annexed hereto as Exhibit R.

147. The federal reviewer also found that the project “has the potential to cause effect to historic properties (including buried archaeological sites)... if any are present.”

C. Unmarked Burial Sites

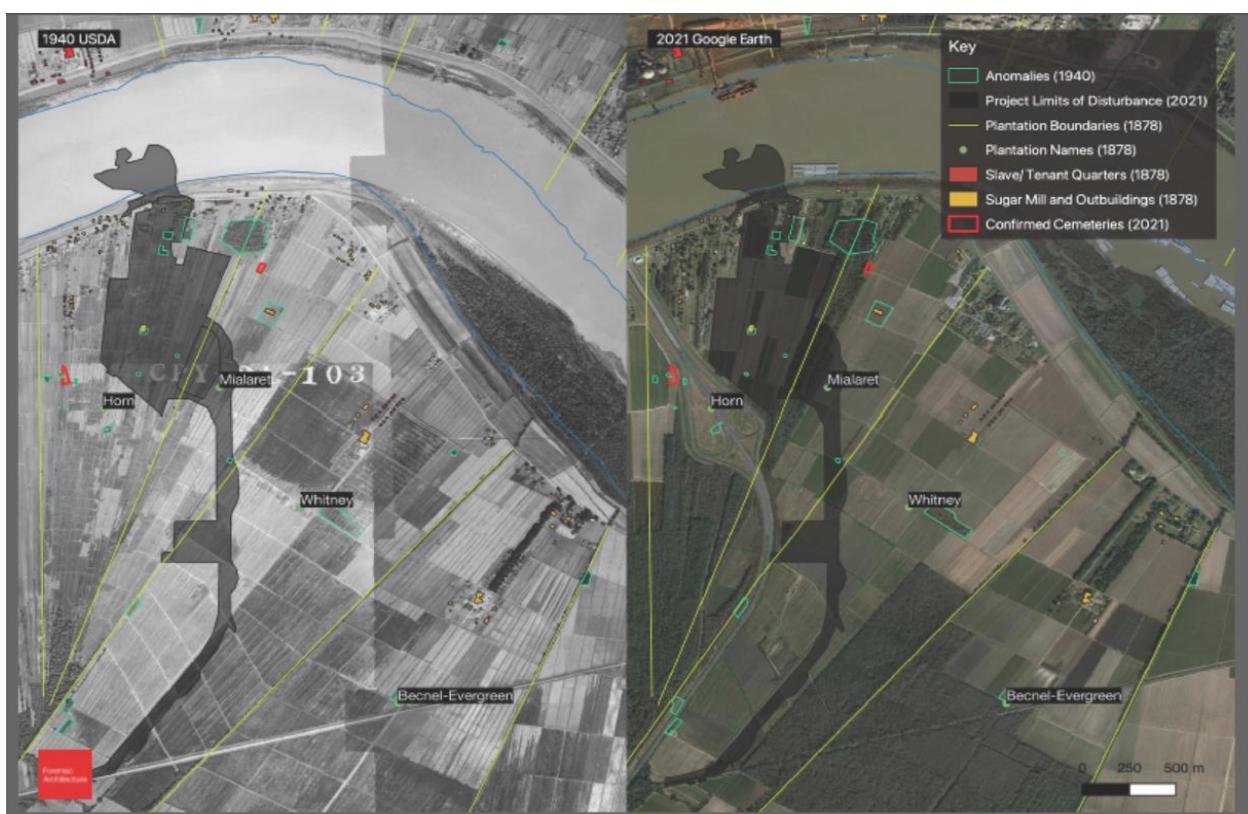
148. Petitioner has also raised concerns with the Parish Council and state authorities about the impact of the project on potential burial sites of people once enslaved on the plantations that operated in the area corresponding to the Wallace tract.

149. It is widely known and accepted that there are numerous unmarked burial sites along the river throughout the region, including in St. John the Baptist Parish, of people once enslaved on the plantations that operated here.

150. Those enslaved on the plantations had no choice in where they would be buried and no control over whether or how their deaths and burial would be recorded. Often, they were buried in places on the plantations that were not being used for farming or other business.

151. These sites were once thought lost to history, unless discovered inadvertently through development, and only if such discoveries were reported to local and state authorities.

152. Recently, Forensic Architecture, an internationally recognized research agency based in London, in consultation with an expert archaeologist in Louisiana, identified a series of archaeological anomalies on the site of the proposed facility that may correspond to unmarked burial sites, as shown in the figures below.¹⁰



Maps by Forensic Architecture showing anomalies on the former plantations that comprise the Wallace Tract with the shadowed outline of the proposed facility. Researchers believe that some of these may correspond with burial sites of people once enslaved there.

153. In the field of archaeology in this region of Louisiana, such anomalies often correspond to unmarked gravesites and other historic or cultural resources.¹¹

154. After observing and documenting “heavy, ground penetrating activity” on the Wallace tract, and given the concerns about potential burial sites of those once enslaved on the property, on May 25, 2021, the Descendants Project, through their undersigned attorneys, sent a

¹⁰ Report: Forensic Architecture, *Environmental Racism in Cancer Alley*, June 28, 2021, available at <https://forensic-architecture.org/investigation/environmental-racism-in-death-alley-louisiana>.

¹¹ A. Eaton, et al, *Searching for the Lost Graves of Louisiana’s Enslaved People: There are Thousands of enslaved people buried in Louisiana’s industrial corridor. But their locations have remained a mystery. Until Now. Using historic maps and aerial photos, we can locate these possible graves*, New York Times, June 27, 2021, available at <https://www.nytimes.com/video/us/100000007778616/louisiana-cancer-alley-cemetery-african-americans-video.html>.

letter to the Louisiana Division of Archaeology, and the Louisiana Office of Attorney General requesting that their offices intervene to stop the activity pending further investigation. See Letter from Center for Constitutional Rights, annexed hereto as Exhibit S.

155. The Louisiana Attorney General's office responded for both agencies that while "some of the anomalies identified in your letter may represent unmarked burial sites," applicable law did not provide their offices with authority to issue cease-and-desist orders in the absence of definitive proof of the "disturbance of a specific burial ground."

156. The Office of the Attorney General also referenced the mandatory reporting requirement for inadvertent discoveries of such sites. *See* Letter from Office of Attorney General dated June 1, 2021, annexed hereto as Exhibit T.

157. However, too often, such sites have been damaged or destroyed "inadvertently" in development projects.

158. One tragic example lies just across the river in St. James Parish where it was discovered that one unmarked burial site believed to contain the graves of people once enslaved on the plantation was partially destroyed when a pipeline was constructed through it, and another appears to have been mostly destroyed when the site was used for a borrow pit.¹²

159. Cemetery dedication law in Louisiana is rooted in the recognition that "cemeteries are considered by most cultures to be sacred," that we have "moral duties to the wishes of the dead" and that there is a "generally held sanctity for cemeteries."¹³

160. For generations, descendants of those enslaved on the plantations in St. John the Baptist Parish and other parishes did not have the ability or privilege of knowing where their ancestors were buried and of having sacred burial places they could access to honor them and their lives.

161. Now, with technological advances and the ability to identify anomalies like those identified in the above-referenced maps, the possibilities exist to affirmatively locate, identify, protect, and preserve such sites, and unite descendant communities with the burial places of their ancestors.

¹² Letter from Center for Constitutional Rights on behalf of RISE St. James and Archaeological Report, March 11, 2020, available at: <https://ccrjustice.org/sites/default/files/attach/2020/03/RISE%20Letter%20to%20St.%20James%20Parish%20Council%20March%2011%202020.pdf>.

¹³ Attorney General Opinion No. 07-0183, available at <http://www.lcb.state.la.us/ago/ago07-0183.pdf>.

D. Lac Des Allemands.

162. When the company pursuing the proposed facility filed an application for a Water Quality Certificate with the Louisiana Department of Environmental Quality (LDEQ), the agency responded on September 30, 2021, with concerns about impacts on Lac Des Allemands. *See* Letter from Louisiana Department of Environmental Quality, annexed hereto as Exhibit U.

163. LDEQ noted that “Lac Des Allemands is currently not supporting its designated use of fish and wildlife propagation” because of “dissolved oxygen and non-native aquatic plants” and requested a series of assurances that the proposed project would “not further cause or contribute to any water quality impairment and to maintain the designated uses of the receiving watershed... .” *Id.*

164. The importance of Lac Des Allemands to the surrounding communities and the state cannot be overstated.

165. The Parish’s Comprehensive Plan emphasized the “recreational opportunities to local residents as well as visitors from around the country and the world” offered by Lac Des Allemands as well as Lakes Maurepas and Pontchartrain, and the “tremendous economic impact to St. John Parish” that fishing, as well as hunting and harvesting provide.¹⁴

166. The Louisiana Legislature declared Lac Des Allemands “the Catfish Capital of the Universe.”

167. The New Orleans City Council issued a resolution on March 25, 2021, opposing the Formosa Plastics facility proposed for neighboring St. James Parish in part because of the impacts it could have on Lac des Allemands.¹⁵

168. With the support of parish officials and state legislators, as well as the community members and environmental groups, Lac Des Allemands has maintained a marginally safer distance from heavy industry that has built up in the river parishes over the past decades. However, the proposed heavy industry in Wallace threatens to impact what community members and environmental groups have identified as a natural “national treasure.”

¹⁴ Comprehensive Plan, p. 161, 164.

¹⁵ Resolution 21-92 of the New Orleans City Council, adopted March 25, 2021, *available at* https://cityofno.granicus.com/MapView.php?view_id=&event_id=23147&meta_id=531422.

IV. Wallace Residents Have Repeatedly Asked the Parish Council to Address Their Concerns About the Zoning Designation of the Wallace Tract and the Proposed Facility to No Avail.

169. Petitioners and Wallace residents have repeatedly asked the Parish Council to address their questions and concerns about the zoning of the Wallace Tract and the heavy industrial facility proposed for the site.

170. In April 2021, they wrote to their council members asking to be placed on the council agenda to discuss the grain terminal. They received no response. Affidavit of Joy Banner.

171. On August 23, 2021, they sent a formal complaint letter and request for zoning verification in the hopes of getting answers about the zoning status and distance requirements for the plant, and also received no response. Letter annexed hereto as Exhibit V.

172. Recently, their council member, Kurt Becnel, was quoted in a media article as saying, “I do not talk about the grain elevator to no one.”¹⁶

173. On August 23, 2021, the Descendants Project and undersigned counsel sent a formal complaint about the zoning questions and concerns with regard to the Wallace Tract.

174. As of the date of this filing more than two months later, Petitioner has not received a response.

175. Like everyone else in the Parish, Petitioners, their families and neighbors were severely impacted by Hurricane Ida, which made landfall on August 29, 2021.

176. While trying to recover, they have grown more concerned about their homes and their community after witnessing more activity on the site of the proposed facility.

177. Petitioners, who can view the site from their yards, have already documented previous ground-penetrating activity on the site, and are concerned there could be further ground-disturbing activities that could impact potential burial sites on the property and urgently seek to address the zoning illegality and surrounding irregularities.

178. Moreover, the extensive damage caused to an existing grain terminal near Reserve by Hurricane Ida, shown below, which also blocked traffic and relief efforts for extended time after the storm, has heightened the fears and concerns of Petitioners and other Wallace residents.

¹⁶ Chris Staudinger, *Against the Grain: Fighting the Wallace Grain Elevator in St. John the Baptist Parish*, Antigravity, Nov. 2021, available at <https://antigravitymagazine.com/feature/against-the-grain/>.



V. Ordinance 90-27 Is an Absolute Nullity.

179. “Persons may not by their juridical acts derogate from laws enacted for the protection of the public interest. Any act in derogation of such laws is an absolute nullity.” La. Civ. Code art. 7; *see also* La. Civ. Code art. 2030 (“A contract is absolutely null when it violates a rule of public order, as when the object of the contract is illicit or immoral.”).

180. A juridical act that is absolutely null is deemed “never to have existed.” La. Civ. Code art. 2033. A claim that an act or obligation is an absolute nullity never prescribes and may be brought by anyone. La. Civ. Code arts. 2030, 2032.

181. The rezoning of the Wallace Tract was an act in derogation of numerous federal, state, and parish laws enacted for the protection of the public interest and as such was *void ab initio*, an absolute nullity, pursuant to La. Civ. Code. Art. 7.

182. The illegality and corruption surrounding the adoption of Ordinance 90-27 were so pervasive and extensive that the Parish President was convicted of violating federal laws enacted for the protection of the public interest, including extortion and money laundering, and was sentenced to nearly five years in prison.

183. In addition to the federal criminal offenses, Millet’s actions, in using his official position as Parish President to push through the rezoning and approve the ordinance passed by the Council, also derogated from parallel state laws prohibiting public corruption, including La. R.S. 14:120 prohibiting “corrupt influencing,” in addition to state ethics laws such as La. R.S. 42:1118, which provides that:

No public servant shall solicit or receive any thing of economic value, directly or indirectly, for, or to be used by him or a member

of his immediate family¹⁷ principally to aid in, (1) the accomplishment of the passage or defeat of any matter affecting his agency by the legislature, if his agency is a state agency, or by the governing authority, if his agency is an agency of a political subdivision, or (2) the influencing, directly or indirectly, of the passage or defeat of any matter affecting his agency by the legislature, if his agency is a state agency, or by the governing authority, if his agency is an agency of a political subdivision.

184. Millet's actions also derogated from the Parish's own ordinances, including

- a) Art. III(B)(3)(b)(iii) requiring him to "see that all laws, provisions of this Charter and acts of the council subject to enforcement by him, or officers subject to his direction or supervision, are faithfully executed;" and
- b) Art. VII(B)(1) requiring that "no officer, official, or employee, or board or commission member of the parish shall directly or indirectly solicit or receive any privilege, rebate, reduced rate, or any other thing of value from any person, firm, or corporation doing business with the parish."

185. The process surrounding adoption of Ordinance 90-27 was so infected with corruption and was such a severe and egregious violation of the public trust and laws enacted for the protection of the public interest that it was *void ab initio* and must be treated as "inoperative as if it had never been passed." *McMahon v. City of New Orleans*, 2018-0842, p. 5 (La.App. 4 Cir. 9/4/19); 280 So.3d 796, 800, *writ denied*, 2019-01562 (La. 11/25/19); 283 So.3d 498, *citing Vieux Carre Property Owners and Associates, Inc. v. City of New Orleans*, 246 La. 788, 167 So.2d 367, 371 (1964).

186. The original survey map upon which the rezoning designations in Ordinance 90-27 was mysteriously torn from the official records in the Clerk of Court. Without it, there can be no clear understanding of what tracts were rezoned and how.

187. The Parish's current zoning maps conflict with each other as to the exact status of zoning of the Wallace tract and none of them comply with the Parish Code's requirements for official maps. This only adds to the serious concerns about the Parish's zoning process in general and the controversy surrounding this tract in particular.

¹⁷ Pursuant to L.A. R.S. 42:1102(13), "'Immediate family' as the term relates to a public servant means his children, the spouses of his children, his brothers and their spouses, his sisters and their spouses, his parents, his spouse, and the parents of his spouse."

188. Ordinance 90-27 should be declared an absolute nullity and the zoning designations originating from it must be scrubbed from all parish zoning maps, records, and documents, and be replaced with the original R-1/residential designation that preceded it.

RELIEF SOUGHT

WHEREFORE, Petitioner respectfully requests that, after due proceedings had, this Court:

- a. Enter a declaratory judgment that Ordinance 90-27 is an absolute nullity;
- b. Order the St. John the Baptist Parish President, Parish Council, Planning Commission, and/or Director of Planning and Zoning, to remove the zoning designations originating with ordinance from all maps and zoning documents, and replace it with the original R-1/residential designation that existed before;
- c. Order St. John the Baptist Parish to notify in writing all residents and property owners in Wallace, including of the Wallace tract, federal and state agencies involved in recent permit review processes of this zoning correction, including: the State Historic Preservation Office in the Louisiana Department of Culture, Recreation, & Tourism; U.S. Army Corps of Engineers; the Louisiana Department of Environmental Quality; and the Louisiana Department of Natural Resources, of the Court's order.
- d. Order St. John the Baptist Parish to notify in writing all previous owners of property adjacent to or nearby the Wallace tract who conveyed their property to Formosa or its subsidiary Format, of the Court's order invalidating the ordinance, and providing those former property owners with a copy thereof.
- e. Order St. John the Baptist Parish to undertake a comprehensive and thorough review by an independent third party, selected in consultation with Petitioners and residents of Wallace, of all of its zoning practices, procedures, and policies, to make recommendations about how to better comply with zoning laws, due process, as well as federal and state civil rights laws.
- f. Any and all further relief as provided by law.

Dated: January 17, 2022

Respectfully submitted,



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Attorneys for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the above and foregoing has been served upon all known counsel of record by electronic mail.

New Orleans, Louisiana, this 17th day of January 2022.


Pamela C. Spees

AFFIDAVIT

STATE OF LOUISIANA

PARISH OF ST. JOHN THE BAPTIST

I, Harriet Banner, affirm as follows:

1. I am a resident of Wallace, Louisiana.
2. I have lived in Wallace my whole life. My family has lived here for generations, going back at least 100 years.
3. I am married to William Banner and we live on Alexis Court on land that is next to a large tract of land that has been used for years to farm sugarcane.
4. We were living here in the late 1980s when we began hearing informally that Formosa was going to build on the land next to us.
5. We never really understood a whole lot about how it was happening but it was made clear to us that we were going to have to sell our property and that we would have to move in about a three month span.
6. They told us we had to move. We couldn't decide whether or not we wanted to sell. They said they were buying us out; that they were going to come and give us the market value of the land.
7. At the time I worked at Union Carbide and my husband worked at Shell so we weren't home during the day. A representative named Durel Matherne would come to our house during the day while we were gone and meet with my mother, Grace who was 69 years old at the time.
8. He would come by almost every day and talk to her about Formosa. He was always going through her, talking to her, acting like he was friends with her, and convincing her that we had to move.
9. Our daughters, Jo and Joy, were 11 years old at the time and were with my mother after school.
10. He talked to them too about moving out of our home, to try to get them excited about moving to a "new home." He told them Formosa wouldn't destroy our house but would use it as a corporate office when they were concerned about what would happen to it.
11. I was in the process of redoing part of my house. I had pulled carpet off the floor. When they said they had to buy our property, they were going to buy the house in whatever condition it was in, so

I stopped the renovations. There was a three-month span where we lived with no carpet on the floor.

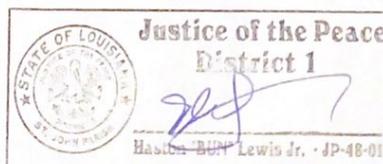
12. We had to start getting our plans in order because we knew we would have to move.
13. Our biggest concern was our children were in school and we didn't know where we were going to live and if they would have to transfer to a new school. We didn't know how far we were going to have to drive to get to work.
14. It was such a strain on us at that time, especially thinking that my family -- cousins, aunts and uncles -- would have to separate. My aunt and I would talk about this every evening and it was very emotional. It was miserable to live with the stress every day of thinking about when you were going to have to move, where you were going to move, and being separated from your family.
15. When we found out that Formosa wasn't coming, we got back to our daily lives, decided we'll fix up our house and we don't have to move. The family was happy because we were all going to be able to stay together. We were relieved after a while when we figured we didn't have to leave.
16. My mother was so glad that we did not have to move because she wouldn't have to leave her levee. She used to tell us, "I lived next to the levee my entire life. I don't know what it would be like to not have my levee anymore."
17. As soon as Formosa was gone, "she was instantly relieved" and was glad that we could stay in our neighborhood.
18. When I was coming up, the levee back then was almost like a beach. It had real sand to the river. The guys would swim out there every day and we maybe sat on a log, while my grandfather was there with a shrimp box. We would go out there just about every day. There was a Baptist church, and they used to baptize in the river once a year and people would stay in the river.
19. This is our home. It is time for this to be resolved and have this land zoned to where nothing like that can come in. We get tired of every so many years having to go through this, this same agony.

Harriett Banner
HARRIETT BANNER

SWORN TO AND SUBSCRIBED BEFORE ME, THE UNDERSIGNED NOTARY,
ON THIS 8th DAY OF NOVEMBER 2021.

Harriett Banner JP-48-01
NOTARY PUBLIC

MY COMMISSION EXPIRES ON 12-31-26



AFFIDAVIT

STATE OF LOUISIANA

PARISH OF ~~ST. JOHN THE BAPTIST~~ ^{ORLEANS} J.B.

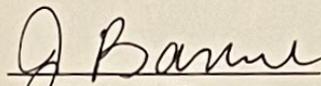
I, Jocyntia Banner, affirm as follows:

1. I think I was 10 or 11 years old when I learned about Formosa. What I remember the most is seeing Durel Matherne at my grandparents' house. Due to my parents' work schedule, my sister and I would go to our grandparents until our parents came home. Many times Matherne would already be at our grandparents' home sitting in the yard, as we got off the school bus. He would visit at least three times a week. We live around plenty of family members and it was usually only my family that sat in the yard with my grandparents.
2. My grandparents' home was like a hub for the Alexis family. We would have as many as 5 other family members, not including my parents, visiting the yard every evening. I think Matherne knew my grandparents were an entry point into the community and exploited them for that purpose.
3. Matherne was extremely nice. I don't recall him speaking much about Formosa when we were around him. My grandparents seemed to really enjoy him. They would often talk about shared experiences and I often heard them laughing. Sometimes he would bring gifts for my grandparents. He was always dressed nicely. I knew was connected to Formosa but I felt like he was more on our side. I think my grandparents felt Matherne would help us in some way.
4. Yet, Matherne was rarely in the yard by the time my parents came home from work. My mother would head to my grandparents' home every evening. Most of the time, Matherne would be gone. I think he did this intentionally to keep my mom as well as the younger family members in the dark.
5. I know my grandparents did not want to move. My grandmother especially did not want to move away from the levee. The levee was like the tapestry of her life. My grandmother and great-grandfather are even written about in a book called "Tales from the Levee." I remember the family discussing places to move that would allow us to stay together as a family unit. We talked about moving to Vacherie. Some of our cousins who were displaced by the bridge lived in Vacherie. We thought we could possibly move to that area and stay together.
6. I don't remember hearing much about Formosa from my parents. Now I realize my parents were trying to protect us. They didn't realize we were hearing information from our grandparents. I remember my mom showing us a house plan book and us choosing

a home. What I remember the most about that book is that it reminded me of a coloring book. I remember wanting to color the picture of our "new" home.

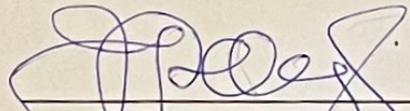
7. I remember Matherne stopped coming. I recall my grandparents not knowing what happened to him. Then we learned he had been arrested because of the Formosa deal. We knew then "he was an old crook" as my grandparents would say. I know my grandparents were hurt by this.

8. My grandparents would often mention how glad they were they did not have to move, even into my adulthood. We still discuss this in our family. We've been together on this land for over 150 years. My family has lived on the street where I live for over 100 years. My family bought land to keep us together. We don't want to move. This is our land.



Jocyntia Banner

SWORN TO AND SUBSCRIBED BEFORE ME, NOTARY PUBLIC, ON THIS 8 DAY OF
NOVEMBER 2021.



NOTARY PUBLIC

MY COMMISSION EXPIRES ON @my death



Affidavit

STATE OF LOUISIANA

PARISH OF ST. JOHN THE BAPTIST

I, Joyceia Banner, affirms as follows:

1. I was 12 years old when Durel Matherne started "visiting" my grandparents over 30 years ago. My sister and I would go to my grandparents every day after school until my parents got off from work. Durel was there nearly every day getting to know my grandparents and earning their trust. Occasionally, he would come with Alden Andre, who I now know was head of Formosa. Mr. Andre never said much.
2. I was too young to realize exactly what was happening and things were moving very quickly. I remember now that it was hard to make sense of anything because everything was so fast. I didn't realize until recently that my parents and grandparents were told that they had to move.
3. I remember my Grandma being apprehensive but Matherne was very nice and he earned my grandparents' trust. He targeted my grandparents and visited when most adults like my parents were working.
4. My neighborhood is composed of my family and extended family. My grandparents were surrounded by my grandmother's brothers and sisters. They would often gather at her house during the evenings. My grandmother's influence meant a great deal and Durel used this to his advantage.
5. My grandfather was wheelchair bound and my grandparents weren't able to get out much. It was nice to have someone new visiting them. My grandparents were very hospitable and believed in treating people nicely. This was the opening that Durel needed. He was able to get them and us somewhat excited about a possible new move. He reassured us we would get fair market value for our houses. When my grandparents expressed sadness about the possible destruction of our houses, Durel told us that our houses would be used for corporate offices.
6. My parents were always very apprehensive. I felt they never quite lost their suspicion and that they could sense that something was incredibly wrong. But as working adults, they were always playing catch up. I remember their anxiety. One day my Mom brought home a house plan book. She was so detached from the process that she let me and my sister pick out the house. I realize now that she was traumatized at the thought of losing her home. We discussed neighborhoods that we could move so that all the family could be together. For over 100 years, our family had lived together and now that was threatened.

- 7. When Formosa didn't come, my parents in particular were happy. My Grandmother expressed relief that she wouldn't have to move away from the levee and that she liked her house. It was like a spell had been broken and we could move on with our lives. As I got older and understood the threat to land, the "industrial zoning" became an ominous presence to us again. Around 2016, the owners of the land put up a for sale sign advertising "industrial land" for sale. Again, the psychological trauma of the industrial zoning was triggered.
- 8. In March this year our worst fears were realized. The Corps of Engineers released a joint public notice announcing Greenfield's plans to build a permit. When I learned about it, my heart sank into my stomach. My parents had just received their vaccines and were looking forward to 2021 but they were instantly distraught when they heard news of the grain terminal.
- 9. Our lives have not been the same since then. In addition to the demands of our jobs, running a business and every-day stressors, we had to deal with the trauma of planning actions, coordinating public meetings and public comments for the community. Greenfield kept everything quiet and did not hold any publicly advertised meetings or town halls.
- 10. We wrote our council members and asked them to place the grain terminal on the council agenda. They refused to even answer our email. We filed a formal complaint and asked for a zoning verification letter to answer some of our concerns about the zoning status and distance requirements, which they also did not respond to. The injustice of the grain terminal is the same pattern of trauma fomented first by the corrupt Formosa land zoning. It feels like we're in a never-ending cycle of abuse. Even after Hurricane Ida ravaged our community, Greenfield was busy with PR tactics. I can't put into words how stressful it is to even hear their name. My blood pressure rises and I physically get weak.

Joycecia Banner, Ph.D.

 Joycecia Banner

SWORN TO AND SUBSCRIBED BEFORE ME, NOTARY PUBLIC, THIS 8th DAY OF NOVEMBER 2021.

Notary Signature JP 10-21

 NOTARY PUBLIC

MY COMMISSION EXPIRES 12-31-26



AFFIDAVIT

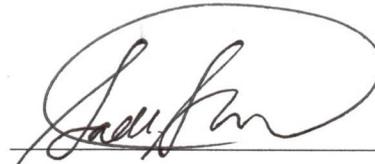
STATE OF NEW YORK

COUNTY OF NEW YORK

I, Sadé S. Evans, affirm as follows:

1. I am a Legal Worker at the Center for Constitutional Rights.
2. On Thursday, October 21, 2021 I visited the St. John the Baptist Government Complex in Louisiana and met with St. John Parish Administration's Director of Planning & Zoning, Rene Pastorek to view public records of the official zoning map.
3. In his office, I took a photograph of the 2012 official zoning map, which is included in the Petition For A Writ of Mandamus.
4. I affirm that the photo of the map, annexed hereto, and presented in the Petition For A Writ of Mandamus is a true and correct representation of the 2012 official zoning map.

Dated: November 4th, 2021



Sadé S. Evans, Affiant

SWORN TO AND SUBSCRIBED BEFORE ME ON THIS 5th DAY OF NOVEMBER 2021.



Notary Public

11/5/2021
Date

My commission expires: 8/12/2023

L'EUNICE FAUST
Notary Public, State of New York
No.01FA6395975
Qualified in New York County
Commission Expires August 12, 2023





AFFIDAVIT

STATE OF LOUISIANA

ORLEANS PARISH

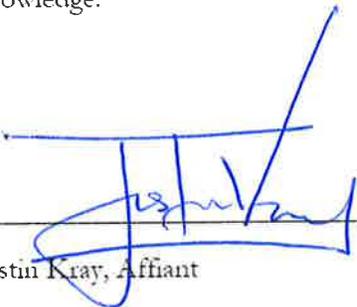
I, Justin Kray, affirm as follows:

1. I am a person above the age of majority who is competent to make this affidavit. I have personal knowledge of the statements made herein.
2. I am an urban planner and cartographer, with over 15 years of experience in geographic information systems, 3d modeling, property & zoning analysis and urban data science. I have extensive experience in developing data sets from property shapefiles, interpreting architectural drawings & proposals and creating public records and reports that are useful for understanding policy problems.
3. On Monday, October 18, 2021 I received a phone call at 9:00am from Rene Pastorek, Director of Planning & Zoning for St John the Baptist Parish. During this call, I asked several questions related to confusion interpreting the various conflicting records I had found regarding the parish zoning map. At this time, I mentioned the hyperlink to a PDF advertised as the "official map" on the Land Use Administration page of the St John the Baptist government website, which showed the entire area of Wallace zoned as R1. This map was taken down from the website as of Tuesday October 19th.
4. The screenshots I took of the aforementioned webpages are annexed hereto.
5. On Thursday, October 21, 2021 I visited the St John the Baptist Government Complex in LaPlace, Louisiana and met with Mr. Pastorek to view public records of the official zoning map. At this meeting, Rene presented a large format copy of the zoning map on the table in his office which was hitherto unknown to me. Upon inspecting this physical map, which was adopted in 2012, I noticed that the zoning for the Wallace neighborhood was inconsistent with the zoning map published online as part of their GIS system. When I asked about the discrepancy, Mr. Pastorek stated that the paper map was outdated and that their GIS map was the "official" version.
6. On December 9, 2021 I returned to the St John the Baptist Clerk of Court in Edgard, Louisiana in search of the Patin survey maps commissioned by Format Corp and referenced by multiple conveyance documents. Upon a computer terminal folder at their office, I found scanned digital copies of different versions of three Patin maps (Map 222, 228, 230). I obtained reproductions of the Patin maps they had available. Based on my review of the various property records, I understood that there was a fourth survey map prepared by Patin of the Whitney plantation property. When I did not see it with the other Patin maps, I then asked to review the original instruments in the archive

(Inst. 131544 & 131545), and verified that there was in fact an original document missing, with a visible torn edge of paper, notably a different type of paper material, and a handwritten note from a prior Clerk noting the loss of a document, "probably a map", which was very likely the Patin survey of the Whitney plantation property. At this time I asked the current Clerk Ms. Eliana Defrancesch if there was any duplicate copy of the original (lost) document, to which she responded "No".

7. I affirm that I have undertaken extensive archival records research into conveyances using the Clerk of Court website & database, to search for and verify detailed information related to the sale and transfer of land to the Format Corp, Formosa, Millet Enterprises, Matherne, Dufresne, and others.
8. I affirm that I created the rendering included in the petition showing the relative scale of the facility as compared to a nearby home. The information depicted was gathered from the most recent Coastal Use Permit P20201021 submitted by Greenfield Louisiana to the Department of Natural Resources on 10/29/2021. I dimensioned the Greenfield site plan in GIS, and measured all distances from the nearest adjacent residential homes in Wallace, which I know to exist by personal visitation to the site on 10/27/21.

I hereby certify under penalties of perjury that the foregoing representations are true to the best of my knowledge.


Justin Kray, Affiant

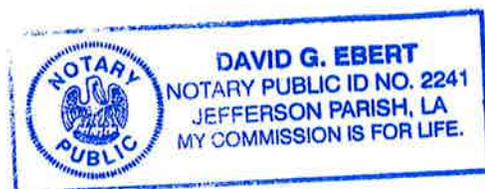
Date JAN. 17, 2022

SWORN TO AND SUBSCRIBED BEFORE ME ON THIS 17th DAY OF ~~NOVEMBER 2021~~ JANUARY, 2022



Date JAN. 17, 2022

My commission expires AT DEATH



Home / Departments / Planning and Zoning / Land Use Administration

In This Section

Communications
Economic Development
Emergency Preparedness
Finance
Grants
Health & Human Services
Human Resources

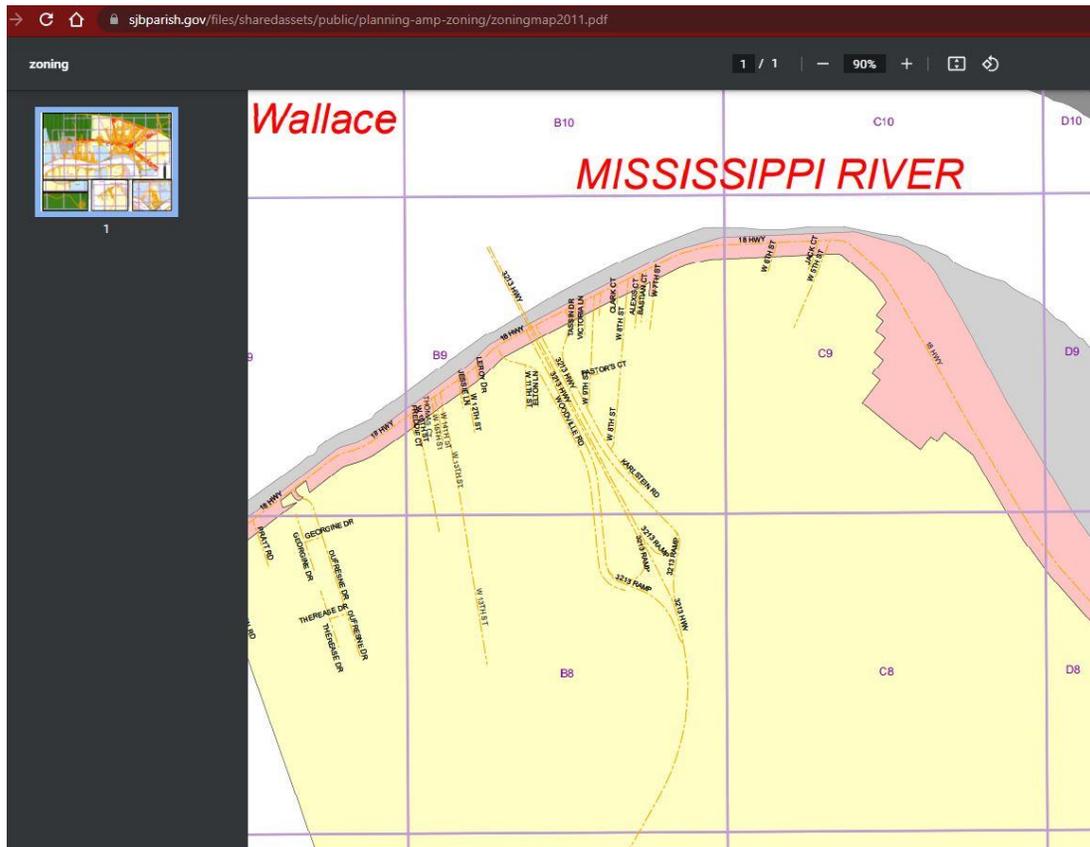
Land Use Administration

Zoning is the classification of land into districts. To promote orderly development, every parcel within the parish has a zoning designation that governs its use. These uses are defined in the official zoning ordinance supported by the official zoning map.

Zoning regulations must be reasonable and may be imposed to protect and promote the health, safety, and general welfare of the public.

BUILDING PERMIT APPLICATIONS

- Residential Permit Application (PDF, 522KB)
- Subdivision/Resubdivision Application (PDF, 479KB)
- Commercial Permit Application & Checklist (PDF, 430KB)
- Variance Application (PDF, 543KB)



AFFIDAVIT

STATE OF LOUISIANA

PARISH OF ST. JAMES

I, VINCENT J. DUFRESNE, affirm as follows:

1. I am a resident of St. James Parish, where I serve as pastor of St. Joseph Catholic Church in Paulina, St. Michael the Archangel in Convent, and Most Sacred Heart of Jesus Catholic Church in Gramercy. I am also Promoter of Justice and Defender of the Bond for the Diocese of Baton Rouge.
2. I was born and grew up in St. John the Baptist Parish where my family resided for generations.
3. I am providing this affidavit because my family, like many others in the area, was deeply affected by the events surrounding the attempts by Formosa to locate its facility in Wallace in the late 1980s and early 1990s. I also witnessed some of the impacts on my neighbors and community.
4. At the time that Formosa set its sights on the tract in Wallace, work resumed to complete the construction of on- and off-ramps of the Gramercy Bridge. I was advised by people affiliated with the process and the Department of Transportation that plans for those ramps had been altered to accommodate Formosa's concerns about trucking access to their future facility.
5. The type of ramp access meant that more land would be required and the state would need to use its eminent domain power to acquire that land. It is my understanding that the original plans for the bridge would have impacted about 10 families but with the changes approximately 40 families, 4 times the original DOTD approved design, were affected.
6. My grandparent's home was in the path of the redesigned project, and we were forced to sell it to the state. We knew that one of our neighbors attempted to challenge the expropriation in court because the amount the state was offering was so low. The result of that judicial proceeding meant that our neighbor had to sell all of his property to the state and move away from the area, and we then realized it would not help us to go to court.
7. The house that was the center of our family, where my grandparents and extended family lived, and where I spent so much of my youth, was over 100 years old.
8. We hoped that we would be able to keep the house and move it to another location but were told we would not be able to get a permit for the relocation. We later learned that former governor Edwin Edwards, when he was out of office, purchased the house from the state, relocated it, then sold it for a profit. It now sits near the cemetery at the foot of the bridge.

9. This series of events was very stressful and deeply painful for our family. My grandmother and aunt expected that they would be able to live out their last days in this home. Instead, my grandmother moved into a nursing home and passed away there. We lost a beautiful home that had weathered more than a century and housed many family memories.
10. When we later learned about the apparent corruption of the St. John Parish officials in their efforts to bring the Formosa project to the area and the seeming abuse of civil authority to push through the rezoning, we felt betrayed and denied the representation expected from our elected civil servants.
11. I believe a lot of damage was done to our community by all of this. We lost neighbors and friends and a sense of community.
12. I also believe that our parish officials at the time deliberately allowed this area to be targeted because most of those who would be impacted were Black families. While some families, like mine, were white, I believe this aspect of the project was used to cloud the fact that the majority of those most affected were Black.

Fr. Vincent J. Dufresne

SWORN TO AND SUBSCRIBED BEFORE ME, NOTARY PUBLIC, ON THIS ____ DAY OF
JANUARY 2022.

NOTARY PUBLIC

MY COMMISSION EXPIRES ON _____

**Note: Due to logistical constraints,
Fr. Vincent Dufresne was unable to
have this statement notarized
before traveling out of state.
Plaintiffs will supplement the filing
with a notarized affidavit as soon
as practicable.**