

FINAL REPORT

BLACKACRE STATE NATURE PRESERVE TASK FORCE



RESEARCH MEMORANDUM NO.492

**LEGISLATIVE RESEARCH COMMISSION
FRANKFORT, KENTUCKY**

January 2002

FINAL REPORT

Blackacre State Nature Preserve Task Force

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Research Memorandum No.492

Legislative Research Commission

October 30, 2001

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MEMORANDUM

TO: Senator David L. Williams
Representative Jody Richards
Members of the Legislative Research Commission

FROM: Senator Tim Shaughnessy, Co-Chair
Representative Steve Riggs, Co-Chair

SUBJECT: Blackacre State Nature Preserve Task Force Report

DATE: October 30, 2001

Senate Concurrent Resolution 1 (SCR 1) of the 2001 General Assembly created a task force to "... develop a strategy to protect the character of Blackacre upon which the land's dedication as a nature preserve was based...." Task Force members were appointed in April 2001. The Task Force met in May, June, July, September, and October of 2001. Pursuant to SCR 1, this report of the findings and recommendations of the Task Force is being provided to the Legislative Research Commission.

The final report of the Task Force was prepared by H. G. Marks, LRC staff.

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SUMMARY OF TASK FORCE FINDINGS AND RECOMMENDATIONS

Background, Description, History, and Management of Blackacre

Blackacre was Kentucky's first state nature preserve. Macauley and Emilie Smith donated their Blackacre farm to the Kentucky State Nature Preserves Commission in 1979. The established value of the donation (\$466,500; \$1,106,492 in today's dollars) was use as a match to obtain a like amount of federal dollars to purchase other properties as nature preserves, thus beginning Kentucky's state nature preserves system.

Blackacre is now operated and managed jointly by three parties (partners) to a "Memorandum of Agreement for the Blackacre State Nature Preserve." The current agreement is an extension of a 1985 agreement and was entered into on October 11, 1996. The three parties to the agreement are The State Nature Preserves Commission (Commission), The Jefferson County Board of Education (Board), and the Blackacre Foundation, Inc. (Foundation). The relationship among the partners to the agreement is described as follows:

Blackacre State Nature Preserve shall be publicly referred to as "Blackacre State Nature Preserve." The nature interpretive building shall be publicly referred to as the "Schick Nature Center." While this agreement is in effect, all publications relating to Blackacre State Nature Preserve will note that Blackacre is owned by the Commission and managed by the Foundation, with educational programs provided by the Board.

SCR 1 of the 2001 session of the General Assembly states that the purpose of the Task Force is:

... to develop a strategy to protect the character of Blackacre upon which the land's dedication as a nature preserve was based. The strategy shall include, but not be limited to, identifying land appropriate for adding to the preserve or to serve as a buffer for the preserve, capitalizing on Blackacre's status as the state's first nature preserve and the state's only preserve with a farm registered as a national historical site, to publicize the importance of preserving natural and cultural areas that are threatened by development, to preserve Kentucky's farming heritage, and to promote the value of the state nature preserves system to citizens across the Commonwealth. The strategy shall also include determining funding sources to be used for maintenance of the preserve, adding land to the preserve, and acquiring land to serve as a buffer around the preserve.

FINDINGS OF THE TASK FORCE

In summary, the Task Force makes the following findings:

- **There is increasing encroachment by commercial and residential development (in part as a consequence of Senate Concurrent Resolution 105 of the 1990 session of the General Assembly which resulted in the extension of water lines, and in turn, sewer lines, into the areas around Blackacre);**
- **The donation of Blackacre to the state in 1979, valued at \$466,500 (\$1,026,492 in 2000 dollars) was used as a match for federal dollars to created the first state nature preserves.**
- **Today, there is a continuing over-dependence on the Blackacre Foundation, Inc. to bear the costs of preservation and expanded program funding of a state property;**
- **There is an unmet need for increased funding (and sources of funding) for its missions, for maintenance, and for preservation;**
- **There is a continuing unmet need to better protect and preserve Blackacre and the Historic District;**
- **More can be done to meet the multiple purposes of the Blackacre mission; and**
- **There is an inadequate visibility and recognition of Blackacre and the Tyler Settlement Historic District as a county and state resource (i.e., a historic, cultural, and natural treasure).**

Commercial and residential development along Taylorsville Road, and especially Tucker Station Road, is having a dramatic and negative effect on the character of the Blackacre environment and the Tyler Settlement Historic District. The Smiths stated, as one of the purposes for their donation of Blackacre, that future generations would be able to “see what a farm was like.” At the present rate of development, except for Blackacre, there will be very little farmland in Jefferson County in another generation.

In 1979 Macauley and Emilie Smith donated their farm, Blackacre, to the Commonwealth of Kentucky. The value of that donation was \$466,500, which in today’s dollars, would be \$1,026,492. This value was used as a match for federal funds which were used to purchase another property in Jefferson County as a state nature preserve.

Current levels of protection for the Preserve itself are adequate; however, protections afforded to the Tyler Settlement Historic District, the historic structures of Blackacre, and to the character of the rural area in which the Blackacre preserve and historic farm is situated, are not adequate. There are, and have been, many “tools” available for protecting Blackacre and the Historic District; among them are:

- Review of federally-funded projects by the Kentucky Heritage Council;
- Guidance provided by various management plans and overlay districts;
- Authority provided to Jefferson County by virtue of its designation by the Kentucky Heritage Council as a Certified Local Government;
- Opportunities provided by the Jefferson County Cornerstone 2020 plan and Land Development Code (e.g. “scenic corridor” designation, “special district” designation, designation of subdivisions in the Historic district as “innovative”); and
- Purchase of properties or easements on properties (identified on Map 1 of Appendix 1).

There is an over-reliance on the Blackacre Foundation, Inc. for funding of operations, maintenance of historic structures, and for other costs associated with owning and protecting Blackacre, and with advancing multiple purposes. There is a need for additional resources (to include various identified grant programs) and more organized and aggressive pursuit of existing sources of funding are required to meet the several purposes and identities of Blackacre (i.e., as a nature preserve, a location/laboratory for environmental education, a historic farm, and the centerpiece of a district which is recorded on the National Register of Historic Places).

Overall, the Task Force found that there is inadequate visibility and recognition of Blackacre as a county and state resource (i.e., a historic, cultural, and natural treasure).

TASK FORCE RECOMMENDATIONS

Recommendation 1: Purchase Properties and Easements

The Task Force recommends, as its first priority, that immediate action regarding properties identified by orange-shaded areas (numbers 4, 5, 8, 11a, 11b, 12, 20a, 31 and 32) on the property map (Map 1 of Appendix 1) be taken and that they be considered as the priorities for property purchase or for easement purchases in order to buffer Blackacre State Nature Preserve and protect the Tyler Settlement Historic District from further encroachment by residential and commercial development.

Recommendation 2: Establish a Capital Campaign

In order to continue the efforts of the Task Force, to better preserve and protect Blackacre, increase public awareness of Blackacre and the Historic District, increase awareness of the value of Kentucky's state nature preserves, supplement resources of the Blackacre Foundation as the primary support for the Preserve, and to accomplish Recommendations 1, and 6, 7, and 8 below, the Task Force recommends that that a broad-based capital campaign be established involving all elements of the community, city, and county government agencies, state and local businesses, state government agencies and funds, private foundations, and federal funding programs. Seed money for this initiative should be provided for with an appropriation from the 2002 General Assembly in the form of a matching grant.

Recommendation 3: Revise Cornerstone 2020 to Create a "Special District"

The Task Force recommends that Jefferson County revise the Cornerstone 2020 plan to designate a significant portion of the Tyler Settlement Historic District (represented on Map 1 of Appendix 1) as "Special District" and use other available and appropriate "tools" provided by the Land Development Code and Cornerstone 2020 to implement land use controls which will protect Blackacre and the Tyler Settlement Historic District from further encroachment and environmental harm resulting from commercial and residential development.

Recommendation 4: Designate Roads Surrounding Blackacre as “Scenic Corridor”

The Task Force recommends that Jefferson County designate the roads (or portions of roads) surrounding Blackacre (i.e., Taylorsville Road, Tucker Station Road, Rehl Road, and Blankenbaker Road) as “scenic corridor,” and that the Kentucky Transportation Cabinet designate these roads as “scenic highway.”

Recommendation 5: Continue JCPS Environmental Programs

The Task Force commends the Jefferson County Board of Education (the JCPS) for its environmental education and nature interpretation programs and recommends that these continue.

Recommendation 6: Continue and Increase Support for Blackacre Foundation

The Task Force commends the Blackacre Foundation, Inc. for its stewardship of the Preserve and for its efforts to open this state property to the general public and recommends that the Foundation be provided with increased support for its efforts to protect and preserve Blackacre and in its current efforts to provide public access to this state treasure.

Recommendation 7: Recognize and Realize Multiple Program Objectives At Blackacre

The Task Force recommends an increase of funding and sustained efforts for programs relating to Blackacre’s farm heritage, historic interpretation at Blackacre, and the preservation of historic structures, in keeping with the use requirements and restrictions of its dedication as a state nature preserve.

Recommendation 8: Seek Grant and Other Funding Sources

The Task Force recommends that the partners to the Memorandum of Agreement seek appropriate and eligible applicants in order to apply for grant funds from the Kentucky Heritage Council to seek funds from the Heritage Land Conservation Fund; and that other similar sources of funding be explored with agencies of state and local government as a way to support Blackacre and the Historic District.

BACKGROUND

Task Force Authority and Purpose

The Task Force was created by Senate Concurrent Resolution 1 (SCR 1) of the 2001 General Assembly. SCR 1 states that the purpose of the Task Force is:

... to develop a strategy to protect the character of Blackacre upon which the land's dedication as a nature preserve was based. The strategy shall include, but not be limited to, identifying land appropriate for adding to the preserve or to serve as a buffer for the preserve, capitalizing on Blackacre's status as the state's first nature preserve and the state's only preserve with a farm registered as a national historical site, to publicize the importance of preserving natural and cultural areas that are threatened by development, to preserve Kentucky's farming heritage, and to promote the value of the state nature preserves system to citizens across the Commonwealth. The strategy shall also include determining funding sources to be used for maintenance of the preserve, adding land to the preserve, and acquiring land to serve as a buffer around the preserve.

DESCRIPTION AND HISTORY OF BLACKACRE STATE NATURE PRESERVE

Location and Geographic Description

To reach Blackacre from the junction of I-64 and I-265 (Gene Snyder Freeway) one would travel south on I-265, 2.7 miles, exiting onto KY 155; turn right (west) and travel 0.7 miles; turn right (north) onto Tucker Station Road and travel 0.4 miles to the gravel parking area. The 170-acre Blackacre State Nature Preserve is in Jefferson County east of Jeffersontown and is located at 38 11'45" N and 85 32'05" W, north of Taylorsville Road and west of Tucker Station Road. The preserve is bounded by Rehl Road and the Norfolk and Southern Railroad right of way on the north and Tucker Station Road on the east.

Blackacre State Nature Preserve consists of 170 acres of State Nature Preserve partially bordered (i.e., buffered and protected) by approximately 100 acres of land belonging to the Blackacre Foundation, Inc. The rest of the bordering and nearby properties (other than roads and railways) consists of private properties variously developed or in the process of residential or commercial development. Some properties have conservation easements or other restrictions prohibiting development. Additionally, the 170 acres of Blackacre is contained within the Tyler Settlement Historic District (i.e., it is placed on the National Register of Historic Places).

Physical Description

The structures located at Blackacre are as follows (for locations see Appendix 1 Map 2: Blackacre State Nature Preserve Homestead Map):

- Stone Cottage (erected between 1795 and 1800);
- Log Barn (construction date unknown; circa 1798 to 1830's);
- Springhouse (built circa 1800);
- Tyler House (erected 1844);
- Frame Barn (erected circa 1885);
- Attached Shed to Frame Barn (construction date unknown);
- Frame Turkey Shed (circa 1885-1910);
- Brick Smokehouse (built circa 1950);
- Frame Garage and Machinery Shed (built circa 1950's);
- Frame Playhouse (circa 1939; moved to Blackacre by Woodwards);
- Schick Nature Center (no construction date; former heifer shed; now used as classroom and for storage of educational materials);
- Cistern and Water;
- Roads, Wood Bridge, Stone Wall (erected/built a various times); and
- Cemetery Site (construction date unknown; unknown as to whether a slave, Indian, or family cemetery).

As described by the 1999 Management Plan, the land and the land use is as follows (see Appendix 1 Map 3: Blackacre State Nature Preserve Overview Map):

- Visitor Parking Lot (constructed in 1982; at end of entrance road to Blackacre);
- Pasture 1 (21-acres);
- Pasture 2 (18 acres);
- Pasture 3 (17 acres);
- Pasture 4 (8 acres);
- Brumley Tract (11.5 acres);
- Jackson Pond Tract (11.5 acres);
- Upper Creek Basin Tract (24 acres);
- Trues Court Tract (11 acres);
- Nature Center Field (12 acres);
- West Barnyard (Immediately west of barn on Homestead Map, Appendix 1);
- Orchard (immediately south of Tyler House driveway on Homestead Map, Appendix 1);
- Homestead (including Springhouse and Springhouse Pond;
- Front Field (18 acres); and
- Parking Lot field (7.2 acres).

History of Blackacre State Nature Preserve

Below is an abbreviated chronology (adapted from a Jefferson County Public Schools timeline and from other documents) tracing the history of Blackacre from first settlement through to its creation as a nature preserve and up to the present day:

- **1782** Edward Tyler acquires 503.25 acres on Chenoweth Run by virtue of Treasury Warrant No. 12182.
- **Late 1780's** Edward Tyler's nephew, Robert Tyler, builds log cabin on a farm adjacent to Blackacre.
- **1792** Date of stone house and possibly log barn at Blackacre.
- **1792** Moses Tyler acquires 220 acres adjacent to his father's land from Alexander Breckinridge.
- **1794** Moses Tyler acquires 200 acres from brother, William Tyler, who received it from their father, Edward, Sr.
- **1834** Moses Tyler deeds his property to son Presley (1796-1879).
- **1844** Presley Tyler finishes brick house at Blackacre.
- **1881** Presley's widow, daughter, and son-in-law sell the 407-acre farm to John T. Sweeney.
- **1885** Sweeney sells to John Kroeger, a German immigrant. John's son, Theodore lives on the property until his death in 1910.
- **1910** Joseph and Delilah Wheeler buy the Blackacre property.
- **1939** William and Elizabeth Woodward buy the Blackacre property.
- **1950** Macauley and Emilie Smith buy the land and call it Blackacre.

- **1979** The Smiths donate farm to the Kentucky State Nature Preserves Commission as Kentucky's first nature preserve. The value of the donated property was used as a match for federal funds which were used to buy additional properties to be used as nature preserves.
- **1981** First master plan for Blackacre property use.
- **1982** Susanne L. Schick Nature Center opens.
1982 Louisville Community Design Center study recommends creation of Blackacre State Nature Preserve foundation.
- **1983** Separate Restriction Notice of Limitation of Use created (From the Notice of Limitation: "..., this property may not be converted to other than outdoor recreational uses (whether by transfer, sale, or any other manner) without the express written approval of the Secretary of the Interior.").
- **1983** Blackacre Foundation, Inc. incorporated (From the Articles of Incorporation: "To make gifts, grants and to expend funds to promote and assist in the support, maintenance and development of 'Blackacre Nature Preserve,' Jefferson County, Kentucky, for (a) its historical significance, (b) a nature preserve, and (c) an environmental and historical education center;").
- **1985** Six hundred acres of the original Tyler family farms are designated as the National Tyler Settlement Rural Historic District.
- **1988** Tyler Settlement Rural Historic District Comprehensive Management Plan
- **1996** Emilie Smith donation of funds to Foundation for purchase of three tracts of (buffer) land (36-acre tract in 1996; 32-acre tract in 1997; 33-acre tract in 1998).
- **1996** Memorandum of Agreement between Blackacre Foundation, Inc., Jefferson County Public Schools, and State Nature Preserve Commission (1996). (From the Memorandum: "Blackacre State Nature Preserve shall be publicly referred to as 'Blackacre State Nature Preserve.' The nature interpretive building shall be publicly referred to as the 'Schick Nature Center.' While this agreement is in effect, all publications relating to Blackacre State Nature preserve will note that Blackacre is owned by the Commission and managed by the Foundation, with educational programs provided by the Board.").
- **1998** John and Catherine Smith contribute \$170,000 for purchase of house, metal building, and property on the south side of the entrance owned by the Boone family.
- **1999** Comprehensive Management Plan Prepared For Blackacre State Nature Preserve by the Blackacre Foundation, Inc.

MANAGEMENT OF BLACKACRE STATE NATURE PRESERVE

The 1996 Memorandum of Agreement and the Blackacre Management Partners

Blackacre is operated and managed jointly by three parties to a Memorandum of Agreement for the Blackacre State Nature Preserve. The current agreement is an extension of a 1985 agreement and was entered into on October 11, 1996. The three parties to the agreement are The State Nature Preserves Commission (Commission), The Jefferson County Board of Education (Board), and the Blackacre Foundation, Inc. (Foundation).

The areas of management responsibility for each of the parties to the agreement are defined in the agreement. Briefly, the Board is to operate the educational programs at Blackacre, and the Foundation is to be responsible for maintenance and property management. Specific program and management responsibilities for the Board and Foundation are delineated in the agreement, perhaps the most important of which is a requirement that the Foundation create a comprehensive management plan for the operation and use of Blackacre.

The relationship among the partners is described by the agreement as follows:

Blackacre State Nature Preserve shall be publicly referred to as “Blackacre State Nature Preserve.” The nature interpretive building shall be publicly referred to as the “Schick Nature Center.” While this agreement is in effect, all publications relating to Blackacre State Nature Preserve will note that Blackacre is owned by the Commission and managed by the Foundation, with educational programs provided by the Board.

Kentucky State Nature Preserves Commission Management

The 170-acre Blackacre State Nature Preserve is owned by the Kentucky State Nature Preserves Commission, to whom it was donated by Macauley and Emilie Smith in 1979. In fact, Blackacre was Kentucky’s first state nature preserve. More importantly, the State was able to use the value of the donated/dedicated (\$466,500; \$1,026,492 in today’s dollars) estate as a match to obtain an equal amount of federal funds for purchase by the Kentucky State Nature Preserves Commission of another property to be used as a nature preserve. The use of the Preserve, and restrictions on that use, are determined by KRS 146.410-146.990 (The Kentucky Nature Preserves Act) and by the Articles of Dedication with Deed of Conveyance (March 19, 1979). Restrictions on the use of Blackacre, and other requirements relating to protection and preservation of Blackacre, are identified in Appendix 3.

The Articles of Dedication specify that the Commission abide by certain “Rules for Management” in the following categories:

- Character of Visitor Activity and Orientation and Guidance of Visitors;
- Fire;
- Water Level Control;
- Disturbance of Natural Features;
- Control of Succession, Exotic Species and Populations;
- Introduction and Management of Threatened or Endangered Species;
- Use Tolerance;
- Research and Collecting Permits;
- Boundary Markers;
- Fences and Trails; and
- Other Structures and Improvements.

As described above, the Commission has formally entered into an agreement with the Jefferson County Board of Education and the Blackacre Foundation as agents for the management and operation of Blackacre. However, on an annual basis, the Commission does provide services and funding in the following areas: building insurance, maintenance of gravel roads, determination of use tolerance, and the provision of staff time for other incidental activities related to the protection and preservation of Blackacre.

Jefferson County Public Schools Management

Since 1981 the Jefferson County Public Schools (JCPS), through the JCPS's Center for Environmental Education, has been responsible for the development and implementation of educational programs conducted at Blackacre. These programs principally involve student environmental education and teacher training programs, along with other programs related to the environment and to historical and agricultural heritage. Public school environmental education programs are required to be in conformity with the Kentucky Department of Education's (1987) plan for environmental education.

The JCPS programs and management plans fall into three basic areas: student education and field study programs, teacher training and field study programs, and community and outreach programs. Until 1999, 8,000 to 10,000 visitors ("visitor days") came to Blackacre each year. The Kentucky State Nature preserves Commission has raised the cap on usage from 10,000 per year to 14,000 in order to accommodate an expansion of programs and access (to private school children and to the general public).

The Memorandum of Agreement requires the Board to co-sponsor educational programs with local agencies. In this regard, JCPS also coordinates and participates in programs with Kentucky state agencies responsible for education, water quality, fish and wildlife management, agriculture, and with the University of Louisville's Kentucky Institute for the Environment and Sustainable Development.

In the 1999 Management Plan the JCPS commits to expanded activity in the areas of environmental and biodiversity programming, and to program initiatives beyond environmental education. As it is stated in the Plan, "By interpreting how families lived at Blackacre, JCPS can play a dynamic role in both enhancing agricultural education and

increasing rural-urban links in Kentucky.” Related to this, the Plan identifies the following additional (historical and agricultural) objectives for the JCPS program at Blackacre:

- Develop a historic farm tools interpretation area and curriculum;
- Develop an interpretive program about enslaved labor at Blackacre;
- Develop a historical and archeological research program at Blackacre, linking community and academic specialists with teachers and students;
- Enhance the interpretation of the historic homestead and connection to the land;
- Establish strong links with the Blackacre Community Garden through service learning and demonstration areas;
- Planting corn, sunflowers, pumpkins and flax as demonstration programs at the Community Garden; and
- Develop and/or promote agricultural/environmental curricula work to link state and local agencies with JCPS schools.

Blackacre Foundation, Inc. Management

The Blackacre Foundation, Inc.(Foundation) was established in 1983 to provide ongoing financial means to maintain the grounds and structures. Macauley Smith, who had donated Blackacre to the state four years earlier, stated that the purpose of the Foundation was to

...raise and disperse funds for the maintenance and day to day operations of Blackacre, with special emphasis on the historic programs for the community at large and to enhance the program of the Jefferson County Public Schools. The Foundation will not be tied to any one particular program and will function even if the entire preserve lies fallow.

The Foundation assumes responsibility for the regular inspection and maintenance of the structural and mechanical elements of the buildings. It maintains service contracts to ensure annual inspections and regular repair or replacement of fire extinguishers, fire detectors and chimneys. The foundation also provides for access to Blackacre by the general public and has developed educational programming for non-public school use.

The Foundation’s mission statement identifies the following priorities for Blackacre:

- Funding maintenance of the existing structures and land;
- Fostering public-private partnerships in environmental education, land management, and land acquisitions and conservation easements in the watershed;
- Providing programs to ensure public access; and
- Acquiring additional property that will support the conservation and aesthetics of the watershed.

Foundation activities (in partnership with the Board and the Commission) as they relate to the above priorities are set forth in the 1999 management plan described below.

The Comprehensive Management Plan of 1999

As required by the Memorandum of Agreement, the Blackacre Foundation is required to develop a management plan. The 1999 Plan is the only official plan for the management of Blackacre in force at present. The plan's Vision Statement for Blackacre describes the uniqueness of the Blackacre State Nature Preserve as follows:

Blackacre is an atypical Kentucky State Nature Preserve. It has a number of competing purposes. The challenge for Blackacre's partners is to carefully interpret the whole of the collective vision, rather than rigidly apply individual tenets. For example, restoration of the ecological integrity of the land will be tempered by the maintenance of the historic homestead and by the traditional agricultural use of the land. These aspects will in turn be affected by the preserve's continued use as an environmental education center. A balancing of principles, land uses, and purposes occurs in many of the management decisions put forth in this plan.

The plan describes the history of Blackacre and the buildings and lands of Blackacre, including those properties surrounding the Nature Preserve which are owned by the Foundation. The descriptions of Blackacre Nature Preserve land and structures include plans for their use and maintenance. Following these descriptions there is a Mission Statement and Financial Summary. The Foundation's Mission Statement, adopted in April 1999, reads as follows:

In order to serve Blackacre, it is the mission of the Foundation to protect and preserve the natural, historic, and aesthetic character of the land and buildings it manages, to promote local history and environmental education, and to ensure responsible use and enjoyment by the public.

The plan then provides recent information and future plans regarding the following:

- Public Use;
- Preserve Monitoring and Research;
- Jefferson County Public Schools Environmental Education Program;
- Public Access Programs;
- Demonstration Farm;
- Animals; and
- Blackacre Foundation Property.

The plan document also contains eleven appendices covering "rules and regulations" (i.e., statutes, administrative regulations, deed restrictions), a list of adjacent property owners, JCPS program costs, natural community and soils descriptions, species lists, Foundation financial statements, site maps, drawings of buildings, recommendations

for future use, and a copy of the 1996 Memorandum of Agreement (between the Commission, the Foundation and the Board).

FINDINGS OF THE TASK FORCE

FINDINGS

The Task Force makes the following findings:

- **There is increasing encroachment by commercial and residential development (in part as a consequence of Senate Concurrent Resolution 105 of the 1990 session of the General Assembly which resulted in the extension of water lines, and in turn, sewer lines, into the areas around Blackacre);**
- **The donation of Blackacre to the state, valued at \$466,500 (\$1,026,492 in 2000 dollars) was used as a match for federal dollars to create the first state nature preserves;**
- **Today, there is a continuing over-dependence on the Blackacre Foundation, Inc. to bear the costs of maintenance, management, preservation, and program funding of a state property;**
- **There is an unmet need for increased funding (and sources of funding) for Blackacre's missions, for maintenance, and for preservation;**
- **There is a continuing unmet need to better protect and preserve Blackacre and the Historic District;**
- **More can be done to meet the multiple purposes of the Blackacre mission; and there is an inadequate visibility and recognition of Blackacre and the Tyler Settlement Historic District as a county and state resource (i.e., a historic, cultural, and natural treasure).**

Residential and Commercial Encroachment

In the absence of planning and land use controls the overall effect of development along Taylorsville Road, and especially Tucker Station Road, is having the cumulative effect of changing the character of the Blackacre environment dramatically. Blackacre and the area around Blackacre are experiencing what has been called "rural sprawl." Rural residential sprawl usually (as in this case) begins away from existing water lines. Over time, pressure develops to extend water (and, in time, sewer) lines over long distances. Public sewer is priced according to average cost pricing, which means that there is an incentive to encourage additional hookups along the line, thus increasing development pressure.

Senate Concurrent Resolution 105 of the 1990 Kentucky General Assembly created a task force to develop a plan for extending water service throughout Jefferson County. In recent years water, and more importantly, sewer lines have moved out to Taylorsville Road to the south of Blackacre and through Tucker Station Road, which is on the eastern boundary of the Preserve, and which fronts the access road to it. The presence of sewer lines is important in that they make high density residential development possible (practically and legally) and, without planning or land use controls, very difficult to control. Three high density housing subdivisions have recently been developed in immediate proximity to Blackacre; two adjacent to Blackacre on Tucker

Station Road (one to the south with 50 units and one to the west, across the street from Blackacre, with approximately 50 units) and another on Taylorsville Road (Landherr, with more than 100 units). There are two or more in the planning stage at the present time, one of which (properties 2 and 3 on Tucker Station Road directly across from Blackacre) will have 150 lots/houses.

These subdivisions, and those which are planned, present significant challenges to the integrity of Blackacre as a nature preserve, a historic farm, and to its role as the centerpiece of the Tyler Settlement Historic District. These challenges relate to environmental stress and stress on wildlife (e.g., stormwater runoff, increased sedimentation, habitat destruction/reduction, light/noise pollution), historic preservation concerns, and the general aesthetic problems presented to a rural and historic area by unplanned high density development and the related commercial activity and traffic that are attendant to such development (e.g., gas stations and convenience stores).

The first map in Appendix 1 of this report displays the properties adjacent to and near Blackacre. Of immediate concern to the Task Force (for property purchase or easement purchase) are several properties along the east side of Tucker Station Road (identified as properties 4, 5, and 8; consisting of 7.2 acres, 3 acres, and 2.3 acres respectively). Also of concern are properties number 12 on Taylorsville Road (31.9 acres), properties 11, 11a, 11b (totaling 20 acres and having significant historical importance) and property 20a (39 acres), which is immediately adjacent to Blackacre (on the west side) and which is intended to become an extension of the high density subdivision called Landherr.

Also of concern are properties 31 and 32, each consisting of one acre. These properties (at the northeast corner of Blackacre) are separated from Blackacre by Rehl Road and the railroad/easement. They are currently zoned “residential,” but conversion is supported by the 2020 Plan and therefore they present the potential for commercial development. The Task Force believes that the increase in congestion, traffic, and the visual effect of commercial activity adjacent to Blackacre and the Tyler Settlement Historic District would be inconsistent with their historic, rural, and nature preserve missions.

A related issue was brought to the attention of the Task Force. Apparently, due to the decrease in rural and farmland over the years, there has been an increase in poaching at the preserve (especially during the fall). It was suggested that local police might be encouraged to invest additional time and effort protecting Blackacre from poachers and trespassers.

Preserving Blackacre and the Tyler Settlement Historic District

It was one of the stated intention of the Smiths when they dedicated the property that future generations would be able to “see what a farm was like,” in Jefferson County. The Task Force finds that this is an important (and perhaps difficult) goal to sustain and

that the wisdom of the Smith's vision is reaffirmed by the following (most recent) Jefferson County statistics:

- In 1900 208,733 acres were in farms;
- By 1982 (about the time of the Smith's donation) only 59,544 farm acres remained;
- Between 1992 and 1997 land in farms decreased 24%, from 44,709 acres to 34,028 acres;
- Full time farms decreased 11%, from 205 farms in 1992 to 182 farms in 1997; and
- The market value of agricultural products sold decreased 7% between 1992 to 1997.

If the trend demonstrated by these statistics continues, it suggests the possibility of a near-total loss of farmland during the next generation, with the exception of Blackacre and those Blackacre Foundation properties surrounding it.

The Task Force found that the current level of protections provided to the 170-acre State Nature Preserve itself are sufficient. However, protections afforded to Historic District lands and buildings, and the areas around Blackacre (by the purchase of property or property easements, by state oversight, or by county planning and zoning) are not sufficient. The Task Force was presented with several methods by which Blackacre and the Historic District may be protected and preserved. Below is a discussion of those federal, state, and local laws; ordinances; planning and development codes; and legal/deed protections which were brought to the attention of the Task Force.

The Kentucky Heritage Council has so-called "Section 106 Review" authority over lands or structures (such as the Tyler Settlement Historic District) which are impacted by federally-funded projects. Section 106 of the National Historic Preservation Act provides that projects affecting places which are on the National Historic Register, such as the Tyler Settlement Historic District, must be reviewed (if any federal funds are involved with the project) regarding their impact on historic sites. However, the developments impacting Blackacre do not immediately appear to involve federal funds, although future contiguous road or infrastructure projects may, in fact, involve such funds and should be reviewed at the earliest planning stages by the Blackacre Foundation.

The Kentucky Heritage Council assists local governments having historic properties with the "certified local government" (CLG) program. Jefferson County is designated as Kentucky's first "certified local government." KRS 67.038(3)(y) is the enabling legislation for county historic preservation commissions, and KRS 82.026 provides for city-wide commissions. The successful nomination of the Tyler Settlement Historic District was a product of Jefferson County's status as a Certified Local Government.

In 1988 The Tyler Settlement Rural Historic District Comprehensive Management Plan was produced using grant funds provided, in part, as a consequence of Jefferson County's status as a CLG. Many of the findings and related recommendations of this Task Force were competently addressed in 1988 (Appendix 4 is a copy of the

Executive Summary of that Plan). However, that plan was never adopted as public policy by the Planning Commission or Fiscal Court of Jefferson County.

The Task force learned of several land use controls that can provide protection from development or mitigate the impacts of development on the Preserve and Historic District. Below is a brief description of these instruments and land use controls.

The Cornerstone 2020 plan and the Land Development Code provide an opportunity to build the preservation needs and requirements of the Historic District and Blackacre into the long-range plan for Louisville and Jefferson County. For example, the roads surrounding Blackacre, but especially Tucker Station Road, could be designated as “scenic corridor” (“scenic route” designation was first recommended to the Fiscal Court and Planning and Zoning Commission in 1988 by the Historic District Management Plan). This would permit development but provide for setbacks and other visual/aesthetic requirements which would maintain an appearance that is compatible with the rural character of the Blackacre/Historic District area. The Commonwealth has a corresponding “scenic highway” designation obtained through the Transportation Cabinet which could provide similar protections. Presently, there are several “scenic highways” in Fayette County but only one, River Road, in Jefferson County.

The 1988 Comprehensive Plan for the Historic District recommended a special district status for Blackacre and the historic district. The Task Force finds that “Special District” designation through the Jefferson County Cornerstone 2020 plan can still provide the basis for incorporating the Historic District’s particular needs for preservation in the development review process. Amendment of the plan’s Form Area map (Core Graphic 1) would encourage the Planning Commission and Board of Zoning Adjustment to set higher standards for any development proposals within the study area. Once designated a special district, Cornerstone 2020 calls for creation and adoption of land use regulations tailored to existing conditions and preservation goals of the Historic District. Special district regulations are intended to prevent negative impacts of new development. The current Cornerstone 2020 plan does not designate Blackacre and the Historic District as a special district. The Task Force believes that the plan should be revised in this manner, and that implementing regulations be adopted for the Blackacre Special District.

Subdivisions may be designed to maximize their compatibility with the area’s historic features. The Fox Creek subdivision adjacent to Blackacre is an example of this (it has an open space buffer between it and the Blackacre property which can only be changed by petition to the Planning Commission.) If additional property in the Historic District is subdivided, innovative design measures such as clustered development with open space preservation and setbacks from designated scenic corridors are strongly recommended.

By far, the most significant “tool” for preserving and protecting Blackacre is the purchasing of properties surrounding the preserve, or obtaining easements which would restrict use and development. These include restricted use easements, conservation easements, rights of first refusal, life estates, and other similar deed restrictions. The

Foundation has been active in this area, with four separate property purchases, and the recent \$80,000 purchase of a conservation easement (on property number 1 of Map 1). The properties which would be the subject of such purchases have been identified earlier in this report and are restated in Recommendations.

Funding Blackacre's Unique Mission

Although the value of the Smith's donation (\$466,500; \$1,026,492 in today's dollars) was used as a match for federal funds, state funding for Blackacre is almost non-existent. Minor costs related to road graveling, insurance, and some staff time are provided by the Nature Preserves Commission. The JCPS provides for costs related to its own programs and grading of the access road. Beyond these contributions, however, the burden of funding for historic building maintenance and other purposes such as land acquisition and easement purchase falls upon the Foundation. The Foundation raises funds through foundation grants, income on endowment, and private gifts. The funds are used to purchase properties and easements to buffer Blackacre, for maintenance of historic buildings, and for programs to provide access to the Preserve for non-public schools and the general public. In recent years Emilie Smith and her son, John, donated funds to purchase properties to buffer Blackacre, and the Foundation has recently purchased an easement to buffer the preserve. The Nature Preserves Commission provides some funding, but its budgeted funding is barely adequate for its limited responsibilities, and locating funds even for the graveling of the road has, at times, been difficult.

The Task Force finds that additional funding is needed for the preservation of historic buildings, for programming beyond that provided by the JCPS and Foundation, for archeological investigation, for purchase of properties and easements (and their subsequent management), and for the purpose of generally reducing the Foundation's funding burden.

The Task Force discussed a number of funding sources which might be creatively used (either in the absence of, or as a supplement to, direct state funding). For example, TEA-21 (Transportation Enhancement Act) funds are available for a wide variety of projects which can be related (in almost any way) to transportation. Some examples of eligible activities identified in the Act and which may be most directly related to Blackacre and the Historic District are:

- Acquisition of scenic easements and scenic or historic sites;
- Scenic or historic highway programs;
- Historic preservation; and
- Archaeological planning and research.

The PACE (Purchase of Agricultural Conservation Easements) is a state program that might be used. However, the requirement that the farmland be of significant agricultural importance and production would seem to make this source of funding less

likely than others. Fayette County administers a similar local government program called “PDR” (Purchase of Development Rights), which could be used to limit high density development in the Historic District. In this regard Jefferson County does have an environmental trust, but it presently contains only \$15,000 and does not have an acquisition budget. Nevertheless, the Task Force finds that the Trust can be a valuable resource in assisting with conservation easement purchase and co-holding, and with land preservation public education efforts on behalf of Blackacre.

The Task Force learned of several sources of grant funding and trusts relating to conservation and historic preservation. Certified Local Governments (CLG) such as Jefferson County may apply for subgrants from the Kentucky Heritage Council/CLG annual fund (as at least 10% of the annual Federal Historic Preservation Fund awarded to the Kentucky Heritage Council must be set aside for grants to CLG’s). The Kentucky Heritage Land Conservation Fund receives money from the state portion of the unmined mineral tax, environmental fines, and the Nature License Plate program. Annually, 50% of the funds go to local governments, State Colleges, and “other agencies.” Of the other half which is apportioned to other state agencies, 10% goes to the Nature Preserves Commission.

The Kentucky Heritage Council has a mandate to “identify, preserve, and protect the cultural resources of Kentucky” and a mission which includes the “preservation and protection of all meaningful vestiges of Kentucky’s heritage for future generations.” The Heritage Council administers two main grant programs. One is a survey, inventory, planning type grant and the other, known as “State Preservation Grants,” provides funding and technical support for the restoration/rehabilitation, stabilization, and protection of historic places.

The Task Force received testimony regarding other grant funding sources such as the Saving America’s Treasures fund of the National Trust for Historic Preservation and the National Park Service, and the “Teaching with Historic Places” program of the National Park Service. The Task Force also received information regarding the potential impact of increased (leveraged) private foundation grant funding which might result if some additional state or federal funding could be obtained to provide “matching funds.”

The Challenge of Multiple Purposes

The Task Force finds that Blackacre is a unique nature preserve in that it is central to efforts to preserve the natural, historic, rural, and agricultural characteristics of Jefferson County and the Tyler Settlement Historic District. As stated earlier in this report, the current Management Plan takes note of the challenge “... to carefully interpret the whole of the collective vision, rather than rigidly apply individual tenets.”

The Task Force found that the nature conservation and environmental education purposes of the Preserve are very well served and commends the JCPS and the State Nature Preserves Commission for their significant efforts in this regard. The Task Force also commends the Blackacre Foundation for its invaluable contribution to the

preservation of Blackacre lands and historic structures. Also, the Task Force commends the Foundation for work related to expanded programs and access to the community, and the JCPS for its expanded programs, including those relating to historic farm demonstration and interpretation.

As stated earlier, Blackacre serves several purposes and is all of the following things:

- It is a nature preserve and a site for environmental education and nature interpretation;
- It is a historic farm and a site for historic farm demonstration and interpretation;
- It is a historic site (on the National Register of Historic Places) and has many historic structures requiring interpretation and preservation; and
- Because it is all of the above, it is a state and local treasure which should be widely enjoyed and supported.

These multiple demands place multiple programming, funding, and legal (e.g., liability relating to farming) burdens on the Partners, and on Blackacre itself. The Task Force finds that additional funding and management resources are required to raise the visibility and recognition of Blackacre as a community and state resource (treasure), for historic land and structure preservation, for archeological research, and for programming related to historic farm demonstration and interpretation and Blackacre's mission to enable future generations to "see what a farm was like."

RECOMMENDATIONS OF THE TASK FORCE

RECOMMENDATIONS

Recommendation 1: Purchase Properties and Easements

The Task Force recommends, as its first priority, that immediate action regarding properties identified by orange-shaded areas (numbers 4, 5, 8, 11a, 11b, 12, 20a, 31 and 32) on the property map (Map 1 of Appendix 1) be taken and that they be considered as the priorities for property purchase or for easement purchases in order to buffer Blackacre State Nature Preserve and protect the Tyler Settlement Historic District from further encroachment by residential and commercial development.

Recommendation 2: Establish a Capital Campaign

In order to continue the efforts of the Task Force, to better preserve and protect Blackacre, increase public awareness of Blackacre and the Historic District, increase awareness of the value of Kentucky's state nature preserves, supplement resources of the Blackacre Foundation as the primary support for the Preserve, and to accomplish Recommendations 1, and 6, 7, and 8 below, the Task Force recommends that a broad-based capital campaign be established involving all elements of the community, city and county government agencies, state and local businesses, state government agencies and funds, private foundations, and federal funding programs. Seed money for this initiative should be provided for with an appropriation from the 2002 General Assembly in the form of a matching grant.

Recommendation 3: Revise Cornerstone 2020 to Create a "Special District"

The Task Force recommends that Jefferson County revise the Cornerstone 2020 plan to designate a significant portion of the Tyler Settlement Historic District (represented on Map 1 of Appendix 1) as "Special District" and use other available and appropriate "tools" provided by the Land Development Code and Cornerstone 2020 to implement land use controls which will protect Blackacre and the Tyler Settlement Historic District from further encroachment and environmental harm resulting from commercial and residential development.

Recommendation 4: Designate Roads Surrounding Blackacre as "Scenic Corridor"

The Task Force recommends that Jefferson County designate the roads (or portions of roads) surrounding Blackacre (i.e., Taylorsville Road, Tucker Station Road, Rehl Road, and Blankenbaker Road) as "scenic corridor." and that the Kentucky Transportation Cabinet designate these roads as "scenic highway."

Recommendation 5: Continue JCPS Environmental Programs

The Task Force commends the Jefferson County Board of Education (the JCPS) for its environmental education and nature interpretation programs and recommends that these continue.

Recommendation 6: Continue and Increase Support for Blackacre Foundation

The Task Force commends the Blackacre Foundation, Inc. for its stewardship of the Preserve and for its efforts to open this state property to the general public, and recommends that the Foundation be provided with increased support for its efforts to protect and preserve Blackacre, and to provide public access to this state treasure.

Recommendation 7: Recognize and Realize Multiple Program Objectives at Blackacre

The Task Force recommends an increase of funding and sustained efforts for programs relating to Blackacre's farm heritage, historic interpretation at Blackacre, and the preservation of historic structures, in keeping with the use requirements and restrictions of its dedication as a state nature preserve.

Recommendation 8: Seek Grant and Other Funding Sources

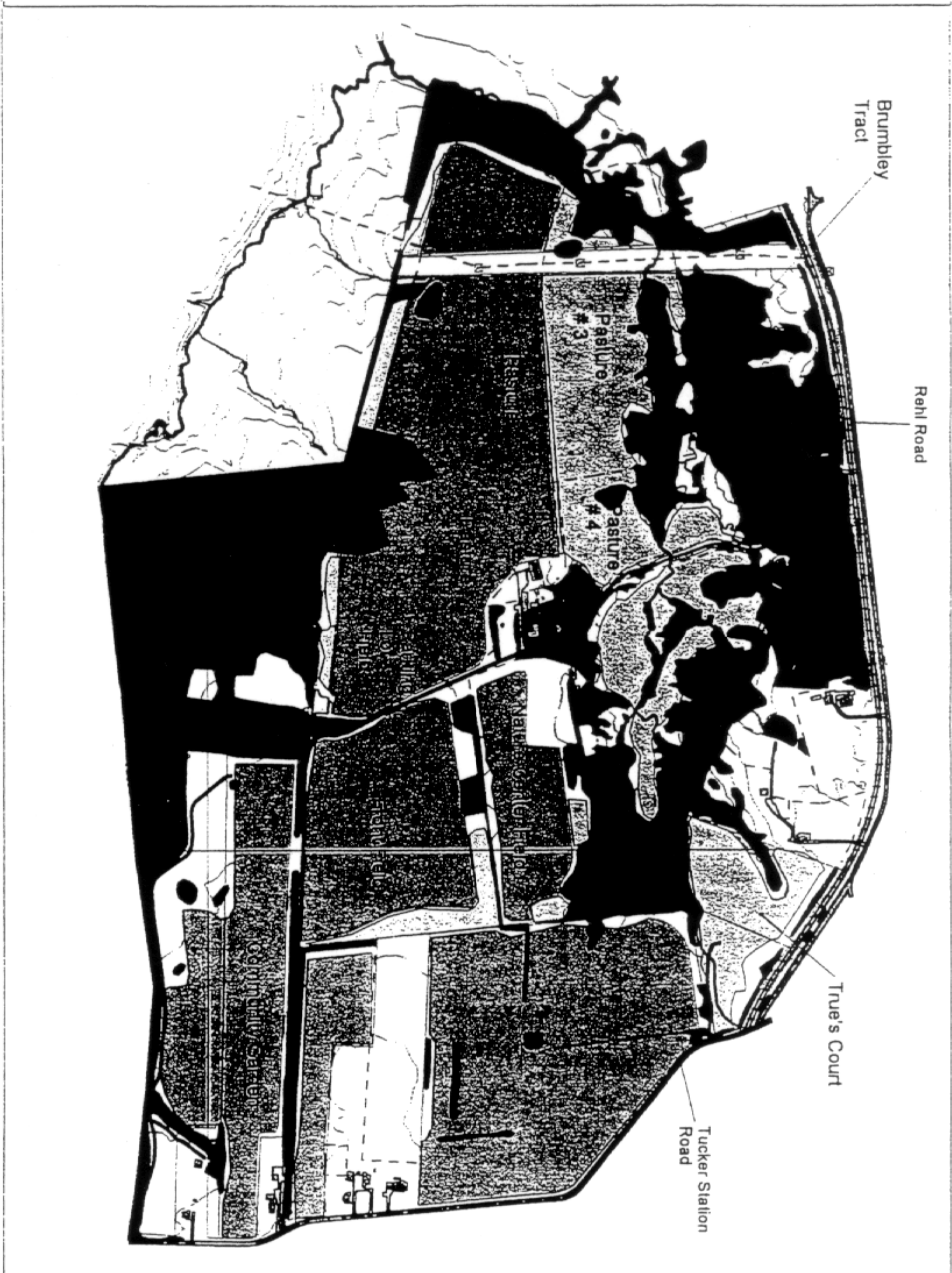
The Task Force recommends that the partners to the Memorandum of Agreement seek appropriate and eligible applicants in order to apply for grant funds from the Kentucky Heritage Council, to seek funds from the Heritage Land Conservation Fund, and that other similar sources of funding be explored with agencies of state and local government as a way to support Blackacre and the Historic District.

Appendix 1

Maps

- 1. Surrounding Properties Map**
- 2. Overview Map**
- 3. Homestead Map**
- 4. Geographic Location Map**

Blackacre State Nature Preserve Overview Map

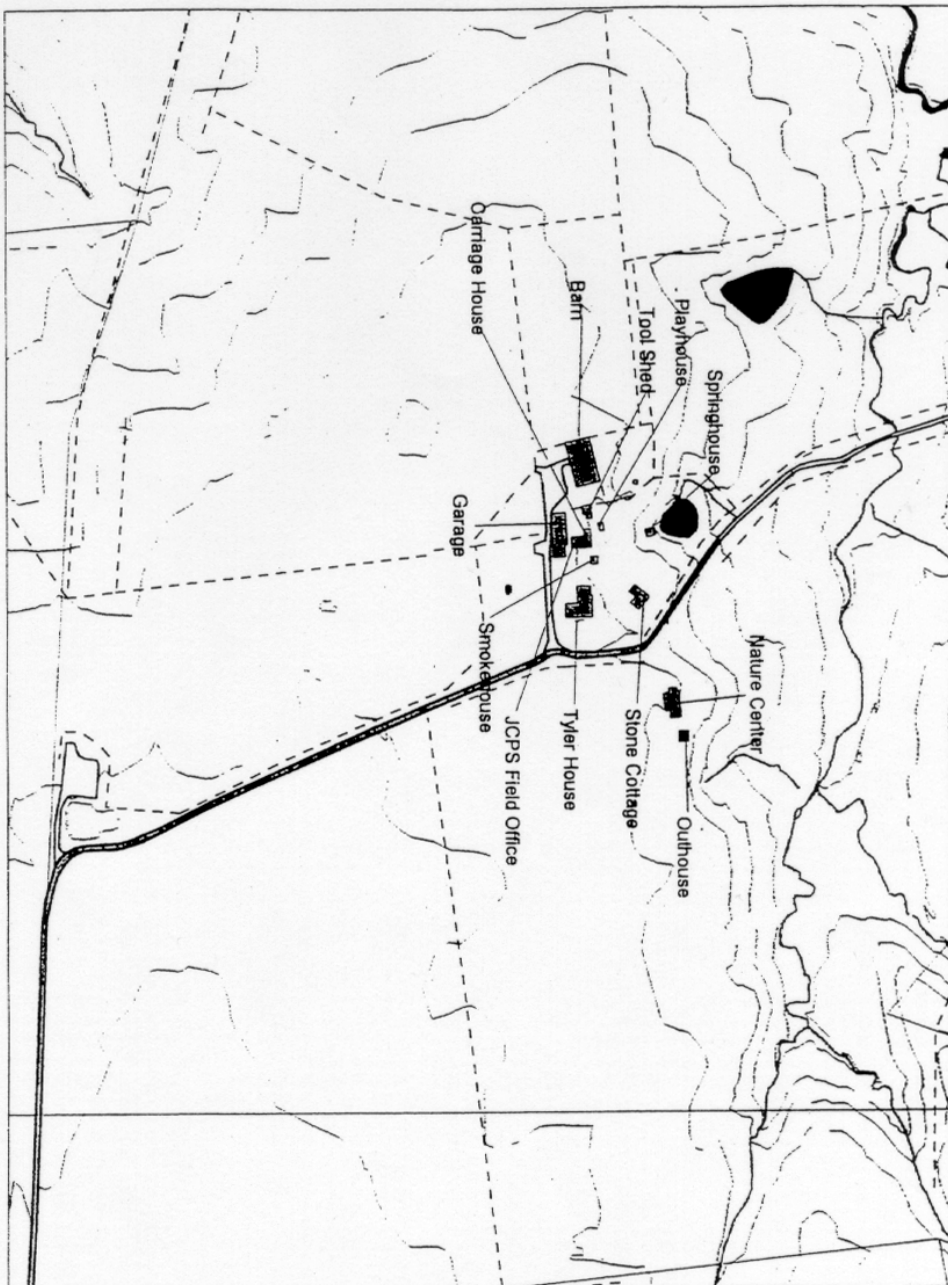


LEGEND

- Rail Road
- Electric Lines
- Utility Poles
- Fences
- Property Boundaries
- Stream
- Ponds
- Buildings
- Parking/Back Roads
- Main Roads
- Land Use
- Agriculture
- Forest
- Succession Area
- Utility Right of Way
- Spot Elevations

SCALE
1:500

Blackacre State Nature Preserve Homestead Map



LEGEND

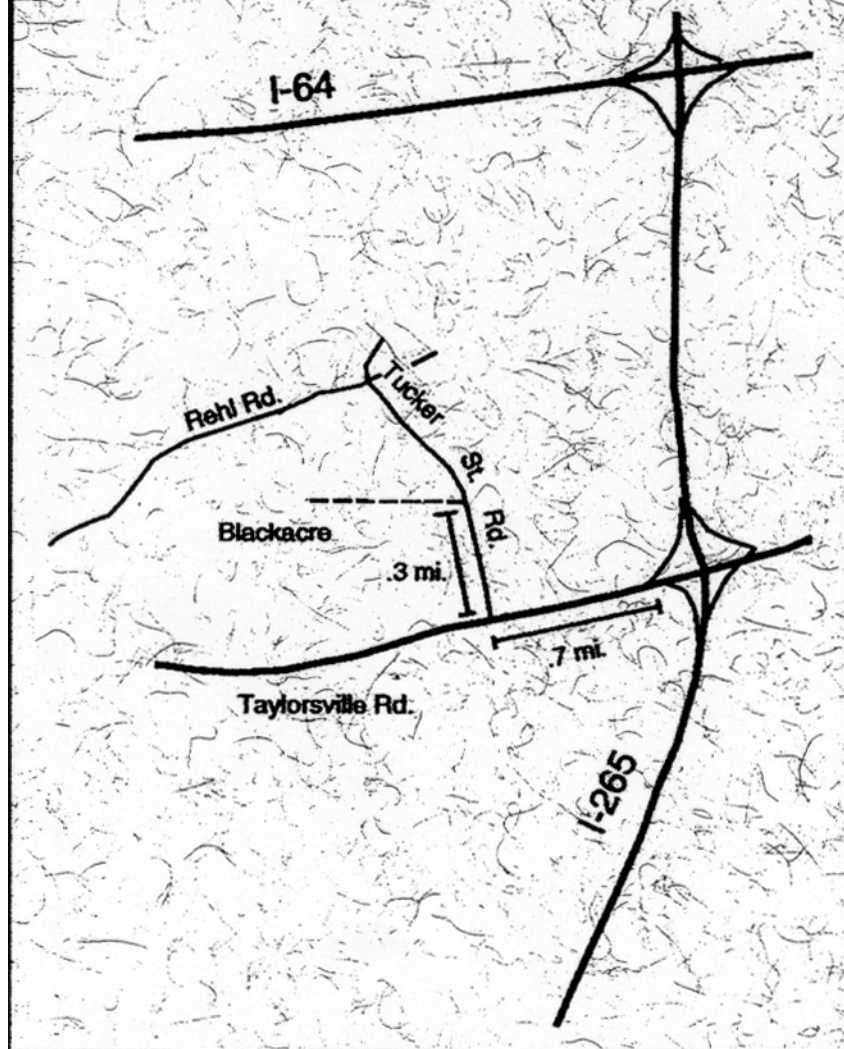
- Rail Road
- Electric Lines
- Utility Poles
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- Buildings
- Parking/Back Roads
- Main Roads
- Spot Elevations

SCALE
1:222.7



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DATE: SEPTEMBER 29, 11

How to get to Blackacre



Appendix 2

Senate Concurrent Resolution 1 (2001 Regular Session)



GENERAL ASSEMBLY

COMMONWEALTH OF KENTUCKY

2001 REGULAR SESSION

SENATE CONCURRENT RESOLUTION NO. 1

THURSDAY, FEBRUARY 22, 2001

The following concurrent resolution was reported to the House from the Senate and ordered to be printed.

A CONCURRENT RESOLUTION creating the Blackacre State Nature Preserve Task Force and declaring an emergency.

WHEREAS, the Blackacre State Nature Preserve was created in 1979 as the first natural area of the state deemed worthy of preservation for the benefit of all Kentuckians; and

WHEREAS, the farm and homestead at Blackacre are part of the Tyler Settlement Rural Historic District, a National Historic Site preserving archaeological and cultural links to Jefferson County's agricultural beginnings; and

WHEREAS, Blackacre is located outside the City of Jeffersontown near the conjunction of Jefferson, Shelby, and Spencer counties, an area now undergoing intense development; and

WHEREAS, during a ten year period from 1987 to 1997, land dedicated to farming in Jefferson County decreased by more than thirty-eight percent (38%);

WHEREAS, the conversion of farmland and natural areas to residential and other nonfarm uses is much higher in Jefferson County than in the rest of the state;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

- 1 Section 1. The Blackacre State Nature Preserve Task Force is created to develop a
- 2 strategy to protect the character of Blackacre upon which the land's dedication as a nature
- 3 preserve was based. The strategy shall include, but not be limited to, identifying land
- 4 appropriate for adding to the preserve or to serve as a buffer for the preserve, capitalizing
- 5 on Blackacre's status as the state's first nature preserve and the state's only preserve with a
- 6 farm registered as a national historical site to publicize the importance of preserving
- 7 natural and cultural areas that are threatened by development, to preserve Kentucky's
- 8 farming heritage, and to promote the value of the state nature preserves system to citizens
- 9 across the Commonwealth. The strategy shall also include determining funding sources to

1 be used for maintenance of the preserve, adding land to the preserve, and acquiring land
2 to serve as a buffer around the preserve.

3 Section 2. The members of the task force shall be appointed as follows: two (2)
4 members of the Senate appointed by the Senate President, at least one (1) of whom
5 represents the area where Blackacre is located at the time of adoption of this resolution;
6 two (2) members of the House of Representatives appointed by the Speaker, at least one
7 (1) of whom represents the area where Blackacre is located at the time of adoption of this
8 resolution; two (2) members of the Kentucky State Nature Preserves Commission or its
9 staff, nominated by the chairperson of the Commission; two (2) members of the
10 Blackacre Foundation Inc., nominated by the president of the Foundation; two (2)
11 members of the Jefferson County School Board or its staff, nominated by the
12 superintendent of the Board; two (2) members of Jefferson County government,
13 nominated by the Jefferson County Judge/Executive; and four (4) members representing
14 the state-at-large, nominated by the Governor.

15 Section 3. The President of the Senate shall select one (1) of the Senate members
16 to serve as co-chairperson of the task force and the Speaker of the House shall select one
17 (1) of the House members to serve as co-chairperson of the task force. The task force
18 shall be staffed by the Legislative Research Commission staff.

19 Section 4. The task force shall report its strategy for Blackacre State Nature
20 Preserve and recommendations for action to the Legislative Research Commission by
21 November 30, 2001.

22 Section 5. Provisions of this resolution to the contrary notwithstanding, the
23 Legislative Research Commission shall have the authority to alternatively assign the
24 issues identified herein to an interim joint committee or subcommittee thereof, and to
25 designate a study completion date.

26 Section 6. Whereas not enough time would be available for a thorough
27 investigation of the issues required by this study if this resolution became effective ninety

1 (90) days after adjournment sine die, an emergency is declared to exist, and this Act takes
2 effect upon its passage and approval by the Governor or upon its otherwise becoming a
3 law.

Appendix 3

Restrictions on Use of Blackacre State Nature Preserve

CONSTRAINTS ON USE OF BLACKACRE PRESERVE

From Articles of Dedication With Deed of Conveyance:

"...dedicated for the purposes provided for "nature preserves" in the Act, ...(i.e., KRS 146.410-146.990)

Primary classification:

"...passive recreation and interpretive nature education..."

Rules for Management:

"...principal visitor activities in the preserve shall be walking and observing..."
(generally restricted to trails except with permission of the Commission)

Under "Rules for Management" "Character of Visitor Activity":

prohibited activities include: "... picnicing, camping, games and sports, use of motorized vehicles, horseback riding, gathering of plants or plant products, possession of firearms airguns, slingshot, bow and arrow, or any other weapons, hunting, fishing, trapping..." (also any disturbance, molestation, or defacement or collecting; also no dogs, cats or other animals allowed on Preserve without permission of the Commission"; also, no littering; also no "cutting or removal of trees, dead or alive, or the disturbance of other natural features...").

*Note: there can be some exceptions to the above prohibitions when "expressly permitted by the Commission to carry out the purposes of these Articles". All changes to rules for management by the Commission must be consistent with the purposes of the Act.

From SEPARATE RESTRICTION NOTICE OF LIMITATION OF DEED:

"...this property may not be converted to other than public outdoor recreation uses (whether by transfer, sale, or in any other manner) without the express written approval of the Secretary of the Interior. By law, the Secretary shall approve such conversion only if he finds it to be in accord with the then existing comprehensive statewide outdoor recreation plan and only upon such conditions as he deems necessary to assure the substitution of other recreation properties of at least equal fair market value and of reasonably equivalent usefulness and location."

From KRS 146.465:

"(6) Articles of dedication may contain restrictions relating to management, use, development, transfer, and public access, as well as such other provisions as may be necessary to further the purposes of KRS 146.410 to 146.530. Specifically, the donor, deviser or grantor of the preserve may prescribe the places where, and the means by which, the public may secure access to the preserve so as to protect the

preserve from overuse and maintain the unencumbered private use of undedicated lands adjoining the preserve. The articles may likewise provide penalties and procedures to be applied in case of violation of their provisions. The articles may recognize and create reversionary rights, transfers upon conditions, and gifts. The articles may vary in provisions from one nature preserve to another in accordance with differences in the characteristics and conditions of the areas involved, or for other reasons found necessary by the commission and the landowner.

(7) Upon such terms and conditions as the commission may determine, the commission may enter into amendments of any articles of dedication upon a finding by the commission that such amendments will not permit an impairment, disturbance, use or development of the area inconsistent with the purposes of the articles of dedication or of KRS 146.410 to 146.530; provided, however, that if the fee simple interest in the area is not held by the Commonwealth of Kentucky under KRS 146.410 to 146.530, no amendment shall be made without the written consent of the owner or owners of the other interests therein."

From 146.440. Uses and purposes of nature preserves.

"In order to secure for the people of the Commonwealth of Kentucky of present and future generations the benefits of an environment having one or more of the characteristics of a natural area, the commission is hereby empowered to acquire in the name of the Commonwealth of Kentucky and to hold in trust for the benefit of the general public an adequate system of nature preserves in the manner herein set forth, and for the following uses and purposes:

- (1) For scientific research in such fields as, but not limited to, ecology, taxonomy, genetics, forestry, pharmacology, agriculture, soil science, geology, paleontology, ornithology, herpetology, mammalogy, biology, entomology, agronomy, conservation, and all other natural sciences;
- (2) For the teaching of biology, natural history, ecology, geology, conservation and other related subjects;
- (3) As habitats for plant and animal species and other natural objects;
- (4) As reservoirs of natural materials;
- (5) As places of natural interest and beauty;
- (6) As living illustrations of our natural heritage wherein one may observe and experience natural biotic and ecological systems of the earth and their processes;
- (7) To promote understanding and appreciation of the aesthetic, cultural, scientific and spiritual values of our unpolluted and unspoiled environment;
- (8) For the preservation and protection of nature preserves against modification or encroachment resulting from occupation, development or other use which would destroy their natural or aesthetic conditions;
- (9) As places where people may observe nature's web of life and our natural heritage, and as reminders of the vital human dependence upon unspoiled natural areas."

From 400 KAR 2:080. Dedication of nature preserves and registration of natural areas:

"Section 1. Dedication of Nature Preserves. (1) Upon the determination by the director of the commission that an area constitutes a natural area worthy of protection through dedication as a nature preserve, and that the owner is willing to have his land or a portion thereof dedicated as a nature preserve, the director may recommend to the commission that the area be dedicated as a nature preserve.

(2)(a) A natural area shall become a nature preserve upon acceptance of articles of dedication by the commission.

(b) Articles of dedication shall be recorded in the county in which the natural area is located, the office of the secretary of state, and the office of the commission.

Section 2. Articles of Dedication. (1) The articles of dedication shall be used as the guidelines for the management of each nature preserve. Management, use, development and public access of each nature preserve shall be in accordance with the provisions set forth in the articles of dedication.

(2) The articles of dedication may contain restrictions relating to management, use, development, transfer, and public access, as well as such other provisions as may be necessary to further the purposes of the Act.

(3) Articles of dedication may vary in provisions from one (1) nature preserve to another in accordance with differences in the characteristics and conditions of the area involved, or for other reasons found necessary by the commission and the landowner, grantor, deviser, or donor.

(4) Before the Commonwealth of Kentucky, through the commission, acquires a nature preserve, it shall be the responsibility of the director to propose to the commission provisions for incorporation into the articles of dedication.

Section 3. Amendment of Articles of Dedication. (1) Articles of dedication may be amended by the commission upon a finding by the commission that such amendment will not permit an impairment, disturbance, use or development of the nature preserve inconsistent with the purposes for which the area was dedicated or inconsistent with the Act.

(2) If fee simple ownership is not held by the Commonwealth of Kentucky, no amendment to the articles of dedication shall be made without the written consent of the owner of other interests therein.

(3) Findings and determinations of the commission to amend articles of dedication may be set forth in the minutes of the commission."

USES AND RESTRICTIONS RELATING TO "BUFFER AREAS"

From 146.465. Acquisition of land or interest in land -- Buffer areas -- Articles of dedication.

"(4) For the purpose of protecting a nature preserve, adjoining land that is not otherwise suitable for dedication as part of the nature preserve may be dedicated as buffer area in the same manner as provided in KRS 146.410 to 146.530 for the dedication of a nature preserve. A dedicated buffer area shall have the same protection under KRS 146.410 to 146.530 as a nature preserve."

From: 400 KAR 2:080. Dedication of nature preserves and registration of natural areas:

"Section 4. Buffer Areas. (1) For the purpose of protecting a nature preserve, adjoining land that is not otherwise suitable for dedication as part of the nature preserve may be dedicated as a buffer area in the same manner as a nature preserve.

(2) The articles of dedication may contain provisions for the management, use, development and public access of the buffer area that differ from those for the adjacent nature preserve."

Other:

Blackacre is one of three Tyler family farmsteads established in the last quarter of the eighteenth century that make up the 600 acre Tyler Settlement Rural Historic District. This district was listed in the National Register of Historic Places on May 1, 1986.

National Register listing places no restrictions on the property owner (unlike historic districts designated by local governments). The only protection afforded properties listed in the National Register and not covered by local ordinance (locally designated) is a requirement that the planning for any federally funded, licensed or permitted action must take into account the effect that the project will have on historic resources. The Kentucky Heritage Council is responsible for enforcing this federal provision. This review process does rely on standards - the Secretary of the Interior's Standards for Historic Preservation. These are broad standards that among other things encourage preservation of existing historic fabric and appropriate replacement when necessary. They also encourage avoidance of adverse impacts.

Appendix 4

Executive Summary of the Tyler Settlement Rural Historic District Comprehensive Plan

Executive Summary

EXECUTIVE SUMMARY

The Tyler Settlement Rural Historic District was listed on the National Register of Historic Places on May 1, 1986. The roughly six hundred acre District is located east of Jeffersontown, Kentucky, and west of the Gene Snyder Freeway (I-265); and is bounded by Taylorsville Road (Kentucky 155) on the south and the Southern Railroad on the north. The uniqueness of the District is derived from three family-related homesteads which have all original farm structures built around 1800 intact and from the fact that minor subdivision has occurred only fronting the main roads and the balance of the original farms are still used for agricultural purposes.

Due to the availability of sewer and water facilities and freeway access, the Interstate 64 corridor north of the District has been a major growth corridor in Jefferson County for nearly two decades. In the past decade, the area north of the District between the Southern Railway and Interstate 64 has been rezoned for industrial park purposes. The Blankenbaker Road Interchange with Interstate 64 (which opened on November 22, 1988) will further encourage industrial park development, resulting in greater urban development pressure on the Historic District. The community's Comprehensive Plan calls for the extension of Blankenbaker Road from Interstate 64 southward to an extension of Plantside Drive (north of the District), but fails to identify a corridor for the extension of the road to Taylorsville Road. Corridors through the District along Tucker Station Road and to the west of the District have been considered, but not officially adopted.

In October of 1987, the Gene Snyder Freeway opened to traffic from Taylorsville Road south, bringing significantly improved freeway access to the Taylorsville/Gene Snyder Interchange east of the Historic District. A major residential development company, NTS, has optioned land in the northeast quadrant of the interchange. During the course of this project, the Louisville Water Company Board announced, in September of 1988, consideration of a major water transmission line down Tucker Station Road through the Tyler District to Taylorsville Road in the 1990-1992 period, continuing westward along Taylorsville Road to Chenoweth Run Road in 1993. Although the Metropolitan Sewer District has no plans to extend sewers into the Floyd's Fork drainage basin (which includes the Historic District), the Jeffersontown sewage treatment plant is within one-half mile west of the Historic District, and private wastewater treatment plants needed to support development may be located on streams in the area.

At present, the lack of sewer or water facilities has hampered development around the District itself. However, if utility facilities are extended down Tucker Station or Taylorsville Roads, or if these roads were to be widened and a route chosen for Blankenbaker Road through the District, there would be tremendous pressures for development in portions of the District and the immediately surrounding area. Accordingly, the District is experiencing pressure for growth in the immediate future.

Thus, the Comprehensive Management Plan recommends several actions to preserve the character of the Historic District:

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- ♦ To reduce traffic passing through the Historic District from surrounding development, locating the Blankenbaker Road extension to Taylorsville Road west of the District and extending Plantside Drive eastward to Rehl Road near the Snyder Freeway. The Jefferson County Public Works and Transportation Department would conduct the alignment feasibility studies, and the Planning Commission would amend the community's Comprehensive Plan to reflect the alignments of these roadway extensions.
- ♦ Preserving Tucker Station Road through the District as a two-lane "Collector" facility.
- ♦ Designating Tucker Station Road from historic downtown Middletown (Shelbyville Road/US 60) to Taylorsville Road (Kentucky 155) as a "parkway," requiring Fiscal Court action.
- ♦ Deferring the reconstruction of Taylorsville Road as a four-lane divided facility until preservation of the District is assured.
- ♦ Prohibiting the extension of sanitary sewers and waterlines through and abutting the District until preservation of the District is assured. Then, allowing sanitary sewers and waterlines through the District only along Tucker Station Road.
- ♦ Confining industrial park development to the north of the Southern Railroad tracks abutting the District.
- ♦ Permitting only single family residential and institutional uses of similar size and intensity adjacent to the District on the west, south and east. Other nonindustrial may be located beyond 200 feet of the District, provided such structures do not adversely impact the District visually, audibly or environmentally, requiring Planning Commission action.
- ♦ Adopting the Plan as public policy, requiring Planning Commission and Fiscal Court action.
- ♦ Obtaining development rights within the Historic District through purchase or donation, preferring to leave property maintained in private hands and allowing private use of property consistent with the preservation of the character of the Historic District, implemented through the Jefferson County Office of Historic Preservation and Archives, which already has a "preservation easement" program in place.
- ♦ Pursuing funding for the acquisition of development rights and maintenance of the District, requiring action of the Jefferson County Office of Historic Preservation and Archives.

- ♦ Preserving the unique and manmade features of the District contributing to the historic and cultural character of the District.
- ♦ Facilitating public access and use of the District to encourage a greater appreciation of the historic and cultural significance of the settlement while protecting the unique features of the District.

These recommendations and implementation actions are elaborated in the body of the document. In summary, a nonregulatory approach has been recommended by the Plan to hold off development pressures temporarily on the Historic District so that this unique asset in Jefferson County and the Commonwealth may be preserved for future prosperity.

Appendix 5

Photographs





