

MCDANIEL STREET CEMETERY – INDEX OF DEEDS

Prepared by Steph McDougal, McDoux Preservation LLC

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In order to formally establish the boundaries of the McDaniel Street Cemetery, we have collected the deeds that show how the land around it was subdivided, leaving the remaining parcel now containing the cemetery. Only one quarter-acre of the cemetery was formally dedicated as the Westcott Cemetery, and more than one acre of cemetery land has, over time, been added to the area of the larger burial ground by other families. Several families have identifiable enclosed plots within the larger cemetery area.

The following document summarizes the chain of title for the land surrounding the larger cemetery. We have also created a map to show how the land was subdivided, since some individual property owners purchased multiple parcels, and it was necessary to keep track of to which parcel subsequent deeds refer.

Notes:

We have converted Spanish surveying units of distance (varas) and area (square varas) to English feet and acres. When a conversion results in a fractional foot, we have rounded to the nearest quarter-foot.

Jensen Drive was widened over time, which accounts for differences in the size of parcels along its eastern boundary, between the time they were originally purchased (in the late 1800s and early 1900s) and today.

Most original settlers in Texas received “a league and a *labor* of land,” a remnant of the Spanish/Mexican system of land measurement that was employed when Texas was being colonized in the 1820s and 1830s. A *labor* is a unit of land area consisting of 177.14 acres, generally enough to build a house and have a farm. A *sitio*, or league, of land is equivalent to 4,428.42 acres and was typically used for cattle ranching. In total, then, a “league and a *labor*” would total 4,605.56 acres. Sometimes these parcels of land would be surveyed with their boundaries measured in *varas*. A *vara* in Texas was equivalent to $33\frac{1}{3}$ inches. A league was 25,000,000 square *varas*; a *labor* was 1,000,000 square *varas*.

The land which would eventually contain the Westcott Cemetery was part of a land grant (Abstract 329) for which Josiah T. Harrell applied on February 21, 1838. Harrell received a league and a *labor* of land, totaling 26,000,000 square *varas* (4,605.56 acres).

The following month, on March 3, 1838, the Harrisburg County surveyor, George Patrick, surveyed 10,400,000 square *varas* (1842.22 acres) of the Harrell tract, which Harrell then sold to John S. Sydnor on November 13, 1841. The transfer was recorded in the General Land Office records on March 13, 1842 and finalized in 1844 when Harrell paid “government dues” of

\$50.44 on the sale.¹ The legal description of the remaining 2,673.34 acres within the Harrell Survey was codified in the Harris County deed records on October 28, 1844.²

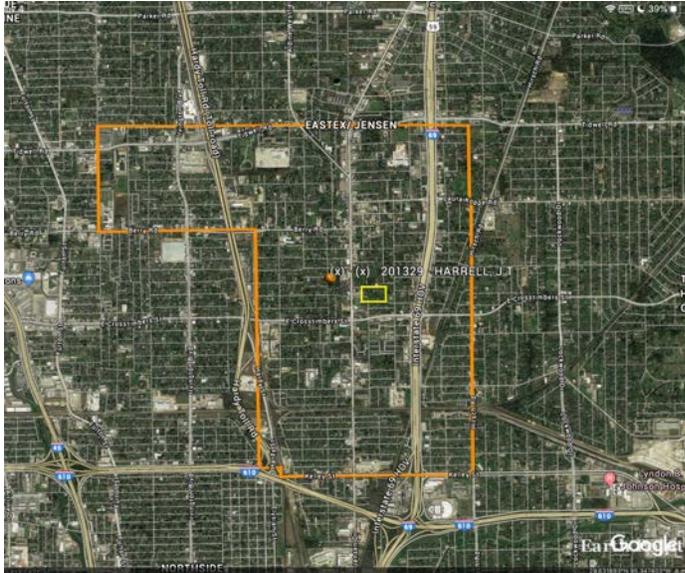


Figure 1. Satellite image (2020) showing the J.T. Harrell Survey 1844 boundaries (orange via EarthPoint.us) with approximate location of Westcott Cemetery (yellow annotation added by author)

Josiah Harrell sold the entire remaining 2,673.34 acres to Andrew J. Yates on June 8, 1841.³ Yates paid \$3.50 for each *labor* of irrigable land, \$2.50 for each *labor* of temporal or arable land, and \$1.50 for each *labor* of pasture land. The number of *labors* in each category and the total purchase price are not given.

The 1847 map shown in Figure 2 (below) shows that Sydnor’s parcel was subdivided into two properties owned by John S. Black and J. S. Collins.⁴ The J. T. Harrell Survey retains the original grantee’s name, even though—by 1847—Harrell was no longer the owner. Note the location of the John Austin Survey, which touches the Harrell Survey at Austin’s northeast corner and Harrell’s southwest corner.

¹ Texas General Land Office abstract 329, Josiah T. Harrell.

² Harris County deed records, Vol. J pages 206–207.

³ Harris County deed records, Vol. H, pages 429–431.

⁴ Harris County, map, 1847; (<https://texashistory.unt.edu/ark:/67531/metaph88301/m1/1/>; accessed November 4, 2019), University of North Texas Libraries, The Portal to Texas History, <https://texashistory.unt.edu>; crediting Texas General Land Office.

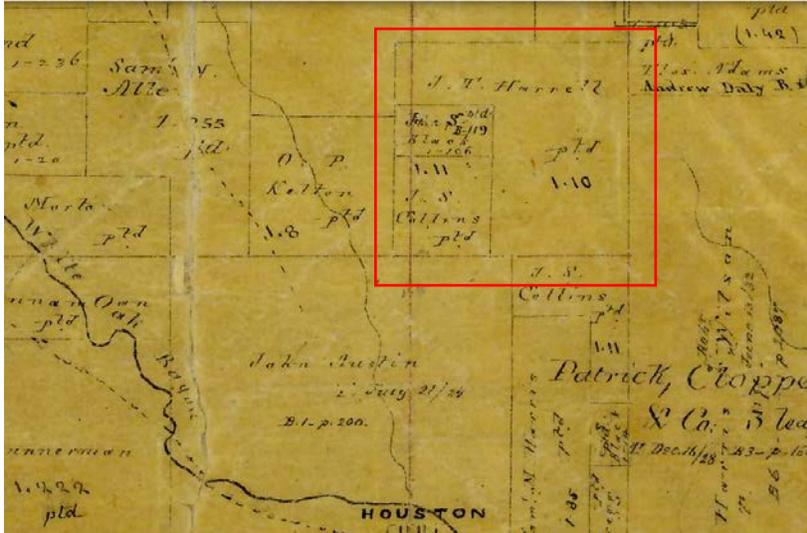


Figure 2. Excerpt from Texas General Land Office land grant map, Harris County, 1847. Annotation added by author.

On February 7, 1843, Yates sold a parcel out of the Harrell survey to Daniel Herrick for \$640, then living in Galveston County. That parcel, which is referenced in the transaction below, is described here in order to situate the subdivision of the Harrell property. The Herrick tract was “... part of the land surveyed for Josiah T. Harrell and adjoining the tract of land surveyed for John Austin on which the City of Houston now stands.” It was a 427-acre parcel, “to be taken from the southern part of said Harrell’s survey by a line running parallel to the southernmost line thereof, and extending from the east line of said survey to the west line thereof, in such a manner as shall include said quantity of land.”⁵ Herrick is called “J. Herrick” in later deeds that reference his parcel, but we believe this is an error, as we can find a Daniel Herrick in Galveston in the 1840s tax records, but not a J. Herrick.

On April 7, 1843, Yates sold a 696-acre portion of the Harrell survey to Alexander Edgar: Beginning at the northeast corner of a tract of land surveyed for John S. Black (also a corner of Harrell’s survey) then south along Black’s east line and the east line of a survey made for C. B. Stewart (also a boundary west line of Harrell’s survey) to the corner of a tract of land conveyed by Yates to J. Herrick, then east along Herrick’s north line “until it extends to a point whence a line drawn from Herrick’s north line shall intersect with a line drawn from the place of beginning.”⁶

Alexander Edgar conveyed the same 696 acres of land to James McRae, William McRae, and Richard D. Westcott on October 15, 1856. The total purchase price was \$1,000.⁷ James McRae sold his one-third interest (for \$700) and, as executor of William McRae’s estate, that one-third interest (for \$200) in the property to Richard D. Westcott on February 6, 1858, although the deed was not recorded until August 19, 1867.⁸

⁵ Harris County deed records, Vol. H, pages 382–383.
⁶ Harris County deed records, Vol. H, pages 433–434.
⁷ Harris County deed records, Vol. S, pages 585–586.
⁸ Harris County deed records, Vol. 5, pages 417–418 (James McRae to Westcott): Vol. 5, pages 418–419 (William McRae estate to Westcott).

Richard D. Westcott then owned the entire 696 acres sold by Andrew J. Yates to Alexander Edgar in 1843. This property became known as the Westcott homestead.

After his wife Almira's death, to fulfill her wishes, Richard Westcott divided the land between his children, with daughters receiving their own shares. On November 3, 1881, Richard presented daughter Annie Rebeca Westcott Beauchamp with a share in the 696-acre tract previously owned by Alexander Edgar, as well as a share of two additional parcels adjacent to the Edgar tract: the 800-acre "Norton tract" and the 686-acre "Latham tract." He also gave her outright 200 acres described as follows, which would later be known as the "Annie Beauchamp tract": Beginning 611 *varas* from the southeast corner of the Edgar tract at a stake in the prairie on the southwest line of the Herrick survey, then east 642 *varas* to a stake in the prairie on the same line, then north 1800 *varas* to a stake on the north line of the Edgar survey, then west 642 *varas* to a stake on the same line being 611 *varas* from the northwest corner of the Edgar tract, then south 1800 *varas* to the place of beginning. This information is provided as reference for the location of the following transaction.⁹ Ten years later, Annie Beauchamp released her father from the shares he had given her in the community property but retained her 200-acre parcel.¹⁰

On January 1, 1889, Westcott, then 80 years old and the administrator of his late wife Almira's estate, fulfilled her wishes that, "in the division and allotment of the community property among the heirs, the old homestead should be awarded to Jennie Gammell Kendall, the youngest child." **This deed is the first one that mentions the Westcott Cemetery.** The homestead property is described as follows: "All that certain tract or parcel of land ... excepting Almira's one-quarter acre including the family cemetery ... beginning at a stake at the north east corner of a tract of land containing 204 acres surveyed for Annie Beauchamp, thence south 1,800 *varas* (5,000 feet) to the south east corner of said Annie Beauchamp's tract, at a stake continuing south 521 *varas* (1,447.25 feet) to the north line of the J. Herrick's survey of 427 acres. Thence east along said line 472 *varas* [note: this should have been 572 *varas*; it was corrected in 1896¹¹] to the southwest corner of a tract of land deeded to Perigoy Westcott and Josephine Westcott Scranton to a stake in the prairie. Thence north 2,321 *varas* (6,447.25 feet) to a stake. Thence east 572 *varas* (1,589 feet) to the place of beginning, containing 234 acres." Jennie Kendall paid \$5.¹² This was 1/3 of the 696-acre tract and may have been Westcott's original share of the property following its purchase from Edgar.

⁹ Harris County deed records, Vol. 25, pages 82–83, file number 2663.

¹⁰ Harris County deed records, Vol. 53, pages 413–414, file number 22571.

¹¹ Corrected deed appears in the Harris County deed records, Vol. 90, pages 506–507, file number 8421.

¹² Harris County deed records, Vol. 52, pages 138–139, file number 21054. Recorded September 13, 1890.

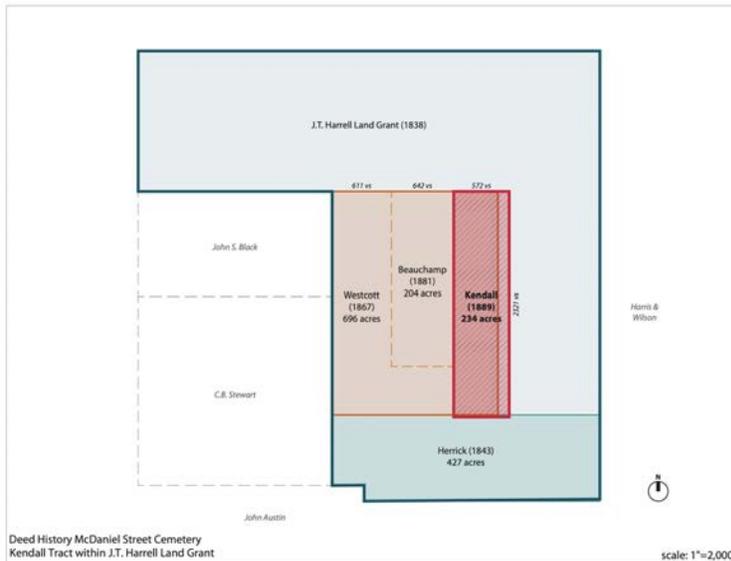


Figure 3. Subdivision of the J.T. Harrell survey into the Westcott property and Kendall parcel (McDoux Preservation LLC)

The following description of the subdivision of the Kendall tract is provided in its entirety for two reasons: because the deeds that establish the boundaries of the cemetery by reference also refer to previous transactions and owners, and because some individuals owned multiple parcels within the Kendall tract, it is necessary to identify which specific parcels are which. A corresponding map showing the subdivision of the Kendall tract is provided in Attachment A.

The following year, on January 1, 1890, Richard Westcott gave his daughter, Julia Ann Westcott Tucker and her son Hampton Westcott, heirs of Hampton Westcott Sr. (deceased), a parcel containing 107 acres of land for \$1.¹³ *This was not adjacent to the Jennie Kendall tract and is mentioned here to establish Julia Tucker’s relationship to her parents and to Hampton Westcott the younger.* On October 4, 1890, Jennie Kendall and her husband Albert sold a second parcel to John E. Tucker (Julia’s second husband, also known as Jack) for \$1.50. This deed establishes that the southwest corner of the Kendall property lay along the “county road” which eventually became Jensen Rd. The Tucker parcel began at a point located 671 *varas* (1,864 feet) from the Kendall southwest corner, then north 284 *varas* (789 feet), then east 200 *varas* (555.5 feet), and finally south and west in the same distances to make a rectangle.¹⁴

The Kendalls sold an identically sized parcel directly adjacent to and south of the John E. Tucker tract to Charles Lang for \$1, also on October 4, 1890.¹⁵

On November 18, 1890, they sold a tract on the east side of their property to M. B. Irwin (or Irvin) for \$200. This parcel began 521 *varas* (1,447.25 feet) from their southwest corner, then proceeded west 332 *varas* (922.25 feet), then north “a sufficient distance” to create a 20-acre lot. As 20 acres equal 871,200 square feet, we can calculate that the “sufficient distance” must

¹³ Harris County deed records Vol. 52, pages 137–138, file number 21052. Recorded September 13, 1890.

¹⁴ Harris County deed records Vol. 51, page 432, file number 21479. Dated October 4, 1890.

¹⁵ Harris County deed records Vol. 51, page 494, file number 21642. Dated October 4, 1890.

have been 945 feet, leaving a 72-foot buffer between the Irwin property and Lang's and Tuckers. That buffer of land appears to have been reduced by the later widening of Jensen Road.¹⁶

On June 11, 1891, the Kendalls sold a 20-acre parcel to Emma Vahl for \$400. The tract was immediately north and adjacent to the Irwin property, beginning at the northeast corner of the Irwin tract, then north along the east Kendall line for 340 *varas* (944.5 feet), then west 332 *varas* (922.25 feet), and for the same distances south and east to make a rectangle.¹⁷

On August 4, 1891, the Kendalls sold a five-acre parcel to W. E. Morin for \$50, immediately north of and adjacent to the Jack Tucker property, measuring 141-1/8 *varas* (392 feet) north-to-south and 200 *varas* (555.5 feet) east-to west.¹⁸

Also on August 4, 1891, the Kendalls conveyed to Hampton Westcott (Julia Westcott Tucker's son; their nephew) a 10-acre parcel along the east line of the Kendall property and not adjacent to other parcels, since the deed does not reference any. It measured 282.25 *varas* (784 feet) north-to-south and 200 *varas* (555.5 feet) east-to-west. Hampton Westcott paid \$25.¹⁹

Immediately south of and adjacent to the Irwin property, the Kendalls sold a parcel measuring 332 *varas* (922.25 feet) wide by 123.5 *varas* (343 feet) to W. L. Parrott on August 24, 1891 for \$75.²⁰

Immediately south of and adjacent to the Parrott property, the Kendalls sold an eight-acre parcel measuring 135 *varas* (375 feet) by 332 *varas* (922.25 feet) to Sarah C. Markley for \$160 on October 17, 1891.²¹

On February 3, 1892, the Kendalls sold a parcel to A. W. McDonald, beginning at their northwest corner "on the east side of the county road," then east 336.5 *varas* (934.75 feet), then south 335 *varas* (930.5 feet), with the same distances north and west to make a rectangle.²² McDonald paid \$300.

McDonald on March 9, 1892, sold a piece out of that parcel to Mrs. Lucy (McDonald) Farmer, measuring 84 *varas* (233.5 feet) wide at the southern end of his property, for \$75.²³ The same parcel is subject to two other deeds on the same day, effectively subdividing the original A. W. McDonald 20-acre parcel into four lots. However, for those transactions, the Kendalls rather than McDonald sold the land, perhaps indicating that McDonald had not paid for it yet. A. W. McDonald purchased the lot immediately north of Lucy Farmer's (measuring 85 *varas* (236 feet) by 332 *varas* (922.25 feet) and extending from the eastern boundary of the original McDonald tract to the county road, for \$100.²⁴ The Kendalls sold an identically sized parcel immediately

¹⁶ Harris County deed records, Vol. 53, pages 74–75, file number 21925.

¹⁷ Harris County deed records, Vol. 56, pages 412–413, file number 24381.

¹⁸ Harris County deed records, Vol. 57, 324–325, file number 24402.

¹⁹ Harris County deed records, Vol. 57, pages 555–556, file number 24951.

²⁰ Harris County deed records, Vol. 57, page 554, file number 24947.

²¹ Harris County deed records, Vol. 59, pages 13–14, file number 25184.

²² Harris County deed records, Vol. 45, page 467, file number 25863. (A. W. McDonald #1)

²³ Harris County deed records, Vol. 54, page 539, file number 26364.

²⁴ Harris County deed records, Vol. 54, page 519, file number 26237. (A. W. McDonald #2) Note that the 332-vara distance given in this deed does not match the original 336.5-vara distance reported in McDonald deed #1.

north of and adjacent to the smaller A. W. McDonald parcel to Miss Margarette McDonald, also for \$100.²⁵ That left a fourth parcel north of Margarette’s land, measuring 81 *varas* (225 feet) by 332 *varas* (922.25 feet) with its northern boundary also the northern line of the original Kendall tract.

The Kendalls on the same day (March 9, 1892) similarly subdivided the Irwin tract into four lots measuring 332 *varas* (922.25 feet) east-to-west and 85 *varas* (236 feet) north-to-south, selling the most southerly lot, north of and adjacent to the Parrott tract, to Mrs. Hattie F. Madeley for \$100.²⁶ The next-most-southerly lot was sold to Lucy Farmer, also for \$100²⁷; that deed includes a map showing the presence of a neighborhood road (Figure 4), created by exclusion from the sale of lots around it, which would later become known as Schuller Road.

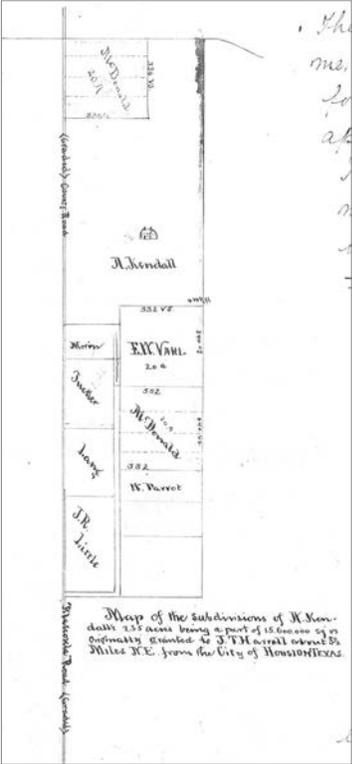


Figure 4. Map of the subdivision of the Jennie Kendall tract, as of March 1892; the southerly 20-acre parcel marked McDonald was formerly the Irwin tract (Harris County deed records)

On June 18, 1892, the Kendalls sold a 10-acre parcel to James Berry for \$150, located immediately south of and adjacent to the original A. W. McDonald 20-acre parcel, the most southerly five-acre lot of which was later sold to Lucy Farmer. The Berry property was the same width as the McDonald tract—336.5 *varas* (934.75 feet)—but 168 *varas* (466.5 feet) north-to-south, twice the size of each subdivided McDonald 5-acre lot.²⁸

²⁵ Harris County deed records, Vol. 54, page 520, file number 26238.
²⁶ Harris County deed records, Vol. 54, page 518, file number 26236.
²⁸ Harris County deed records, Vol. 65, pages 34–35, file number 29162.

On September 2, 1892, the Kendalls sold a 10-acre parcel to J. B. Charpiot for \$400. It was located immediately south of and adjacent to the Berry tract and almost exactly the same size: 336.0 *varas* (933.25 feet – 1.5-foot less) by 168 *varas* (466.5 feet).²⁹

W.E. Moran (formerly Morin) added to his property on September 10, 1892, by purchasing an additional three acres immediately north of and adjacent to his previous parcel, measuring 200 *varas* (555.5 feet) east-to-west and 75 *varas* (208.5 feet) north-to-south.³⁰

The Julia Westcott Tucker 107-acre parcel was sold after her death to R. E. Higbee, “now of Wharton,” for \$1.00 on September 13, 1892.³¹ This information is included here to indicate that heirs appear to have been G. G. Westcott; Albert and Jennie G. Kendall; Charles and Mary Landenschlager, H. H. and Jodia Scranton, and G. M and Annie R. Beauchamp.

W. S. Parrott and wife A. M. Parrott sold their parcel to Lucy Farmer and Hattie Madeley on December 31, 1892, for \$150.³²

A parcel out of the northeast corner of the Kendall property was sold by them to Lucy Farmer for \$100 on March 30, 1893. The parcel included the land from the northeast corner of the Kendall tract to the northeast corner of the former McDonald 20-acre tract (now subdivided), south 336 *varas* (933.5 feet), and then west and north to make a rectangle;³³ that put the southern boundary effectively in line with the southern boundary of Farmer’s 5-acre lot from the McDonald subdivision.

The next day, on March 31, 1893, the Kendalls sold an 18-acre parcel for \$500 to Julius Schuller immediately north of and adjacent to the Emma Vahl tract. The deed gives the size of this parcel as measuring north 407.5 *varas* (1,132 feet) and west 200 *varas* (555.5 feet). However, that does not equal 18 acres; we believe that this is an error and should have been 507.5 *varas* which, when multiplied by 200 *varas*, equals 17.979 acres. (A similar error was made in the recording of the original Jennie Kendall tract.) No mention of another boundary to the north is made in the deed.³⁴

As land purchases were beginning to close in around the Westcott family’s burial ground, **the Kendalls officially dedicated one-quarter-acre of land to that purpose on October 21, 1893.** Trustees named were W. S. Waller, J. C. Reese, Joseph T. Gammon, William McGuire, J. D. Grady, S. C. Peters, Robert Ward, C. M Jones, S. S. Hoge, (no first name) McCracken, and Emanuel Young. The description of the property simply references the existing boundaries of the cemetery, with no other references to existing parcels. The deed establishes that the cemetery is to be used “for a neighborhood burying ground only.” It further specified, “And for white people only.”³⁵ The brick wall around the Westcott family plot area, which we believe was added around 1930, is currently about 400 feet in total length, enclosing an area of about

²⁹ Harris County deed records, Vol. 62, page 531, file number 28277.

³⁰ Harris County deed records, Vol. 67, page 502–503, file number 33142.

³¹ Harris County deed records, Vol. 64, pages 11–13, file number 29409.

³² Harris County deed records, Vol. 63, page 659, file number 30372.

³³ Harris County deed records, Vol. 66, page 374, file number 31307.

³⁴ Harris County deed records, Vol. 66, page 472, file number 31549.

³⁵ Harris County deed records, Vol. 71, page 351, file number 34515.

8,430 square feet or 0.20 acres. Adding a few feet of clearance outside that wall easily brings the area to one-quarter acre, as shown in Figure 5 below.



Figure 5. An estimation of the size and shape of the Westcott Cemetery (Google Maps)

On November 15, 1893, A. W. McDonald purchased for \$200 an additional five-acre parcel immediately south of and adjacent to the Charpiot tract, the same width (336 *varas*, or 934.5 feet) and 84 *varas* (233.5 feet) north-to-south. The deed does not reference any shared boundaries other than the one shared with Charpiot.³⁶

The Kendalls sold to Mrs. M. J. Little “out of her separate means” and “as her separate property and for her separate use and benefit” for \$150 about 15 ½ acres in their southeast corner measuring 332 *varas* (922.25 feet) east-to-west by 257 *varas* (714 feet) north-to-south.³⁷ According to this deed, the sale was executed on December 22, 1890, but not executed until October 22, 1891, and filed on February 9, 1894. [This is not the same property shown on map contained in the Lucy Farmer deed of March 9, 1892.]

John Farmer, Lucy’s husband, for \$150 on December 29, 1893, purchased from the Kendalls the tract of land described as follows: Beginning at the southwest corner of a tract of land sold to Lucy Farmer (Vol. 66, page 374), then east along her south line to the Kendalls’ east line; then south along that east line to the northeast corner of a tract of land sold to Julius Schuller (Vol. 66, page 472), then west to the east line of a tract of land sold to John Charpiot (Vol. 62, page 531), then north along Charpiot and Berry’s east line to the place of beginning.³⁸ No specific distances are included in this description.

Note: Descriptions of both the Berry tract and the Charpiot tract, as given in their respective deeds, are 1.5 feet short of the McDonald purchase of November 15, 1893. We believe that this is an error. The Charpiot and McDonald 1893 parcels appear to have the same east line.

The McDonald 1893 (#3) and Charpiot lots were purchased by Mrs. Theresa Huebner in 1920 from P. V. and Rebecca Turnley and L.A. and Mary Daphney Rawlings (Vol. 443, page 307) and

³⁶ Harris County deed records, Vol. 71, page 445, file number 34759. (A. W. McDonald #3)

³⁷ Harris County deed records, Vol. 72, pages 149–150, file number 36034.

³⁸ Harris County deed records, Vol. 74, page 39, file number 35483.

sold to James Oscar Kuhn on June 30, 1921.³⁹ The Kuhn deed will be referenced later in this document.

On January 15, 1894, A. W. McDonald bought another tract from the Kendalls for \$405. The description of metes and bounds contains distances expressed in both *varas* and feet, as follows: Beginning at the southwest corner of the parcel that he purchased on November 15, 1893, then east 336 *varas* (933.5 feet) along that parcel's south line to its southeast corner; then north 404 feet to the southwest corner of the John Farmer tract of December 29, 1893; then east 35 feet to the northwest corner of the Julius Schuller tract; then south along Schuller's west line 595 feet, then west 348.5 *varas* (968 feet) to a stake, then north 191 feet to the beginning, containing about 4.5 acres of land.⁴⁰ These measurements do not line up with the corner points of adjoining parcels, as described here, but they make more sense once the dimensions of the first Schuller parcel are corrected for area.

Lucy Farmer and Hattie Madeley swapped parcels of land; A. J. and Hattie Madeley sold their lot in the former Irwin subdivision to Farmer, who owned the adjacent lot to the north⁴¹; then Lucy and John Farmer sold the former Parrott lot to Hattie Madeley.⁴² Those transactions consolidated the two Farmer-owned lots which had previously been separated by the Madeley lot.

The Farmers continued to purchase property in the Kendall tract on December 1, 1894, when they purchased from John E. and Julia Tucker for \$15 a 7-*vara* (19.5-foot) strip at the south side of the Tucker tract.⁴³ This probably was used as a neighborhood road to provide more direct access to the Farmer property from the County road (now Jensen).

Schuller Road was established by the deed dated December 8, 1895, in which the Kendalls gave to the public, in exchange for \$1.00 paid by "John Farmer and others" a thoroughfare described as starting at the northwest corner of the "Margerate" (probably Margarete) McDonald tract and then running south along the west lines of the A. W. McDonald, Lucy Farmer [all of the above making up the former M. B. Irwin tract], Hattie Madeley [previously Parrott tract], Sarah Markley, and (?) Hardesty [previously Mrs. M. J. Little tract], "thence with his west line to our south line, thence with our south line west to a public road, thence north 7 *varas* (19.5 feet) to Mrs. J. W. Bell's [formerly Little] southwest corner, thence east with her line 200 *varas* and her southeast corner, thence north with her line to Chas. Lang's southeast corner, thence north with his line to the southeast corner of the Tucker tract, thence west with said line so far that a line run due east will intersect the place of beginning."⁴⁴ This formally establishes the two streets which appears on the Lucy Farmer map dated March 9, 1892 (Vol. 58, page 467). Note that, at this time, the roadway that would become Schuller Road did not stretch north to the cemetery, as it does today.

³⁹ Harris County deed records, Vol. 480, pages 224–225, file number 61755.

⁴⁰ Harris County deed records, Vol. 80, page 364, file number 1385. (A.W. McDonald #4)

⁴¹ Harris County deed records, Vol. 84, page 38, file number 3532.

⁴² Harris County deed records, Vol. 84, page 39, file number 2533.

⁴³ Harris County deed records, Vol. 84, page 309, file number 5910.

⁴⁴ Harris County deed records, Vol. 84, page 343, file number 6289.

On January 28, 1896, the Kendalls sold a small parcel, just over one acre, to Josie E. Bell. This narrow strip of land lay north of the Schuller road terminus, bordered by Emma Vahl to the east and Tucker and Moran on the west. The boundaries began at the northwest corner of a tract sold to Margaret McDonald, then north 855 feet, then west 62 feet to the northeast corner of the tract sold to W. E. Moran, then south 855 feet and east 62 feet to the place of beginning.⁴⁵ Similar to the 1894 A.W. McDonald purchase, when we mapped this purchase, these measurements did not line up with the corner points of the surrounding parcels, but they made sense after a few adjustments to eliminate a gap.

The Kendalls sold another small parcel (2.63 acres) to C. J. Schuller for \$31.50 on January 10, 1896. This was immediately north of and adjacent to the second W. E. Moran tract and the Josie Bell tract. "Beginning at the northwest corner of W. E. Moran's second tract, on the east side of the Atascosita County road, and then continuing east 555.5 feet to Morin's northeast corner and on for a total of 617.5 feet, to Mrs. J. W. Bell's west line. Then north 89.5 feet to Mrs. Bell's northwest corner and east 366.66 feet along her north line to the southwest corner of C. J. Schuller's 18 acres, and north along his west line for 60.5 feet to a stake. Then west 984.5 (probably 984-1/6) feet to the east side of the Atascosita road, and south 150 feet along the east side of the road to the place of beginning."⁴⁶

In 1897, a group including G. M and Annie R. Beauchamp, C. and Mary Loudenschlager, Jennie Kendall, J. E. and Julia A. Tucker, J.D. Westcott, W. E. and Hattie A. Toler, W. C. and M.A. Giles, R. C. and Annie Blackwell, Emma A. and J. P. Westcott (all heirs or grandheirs of R. D. and Almira Westcott) sold 22.2 acres of land (originally thought to be 40 acres, and not part of the Kendall tract) to G. G. Westcott with the proceeds of the sale to benefit the Westcott Cemetery, and G. G. Westcott then sold the land to John J. Fank for \$638.30.⁴⁷

⁴⁵ Harris County deed records, Vol. 92, page 260, file number 8985.

⁴⁶ Harris County deed records, Vol. 84, page 376, file number 6646. (C. J. Schuller #2)

⁴⁷ Harris County deed records, Vol. 222, pages 508–509, file number 43548.

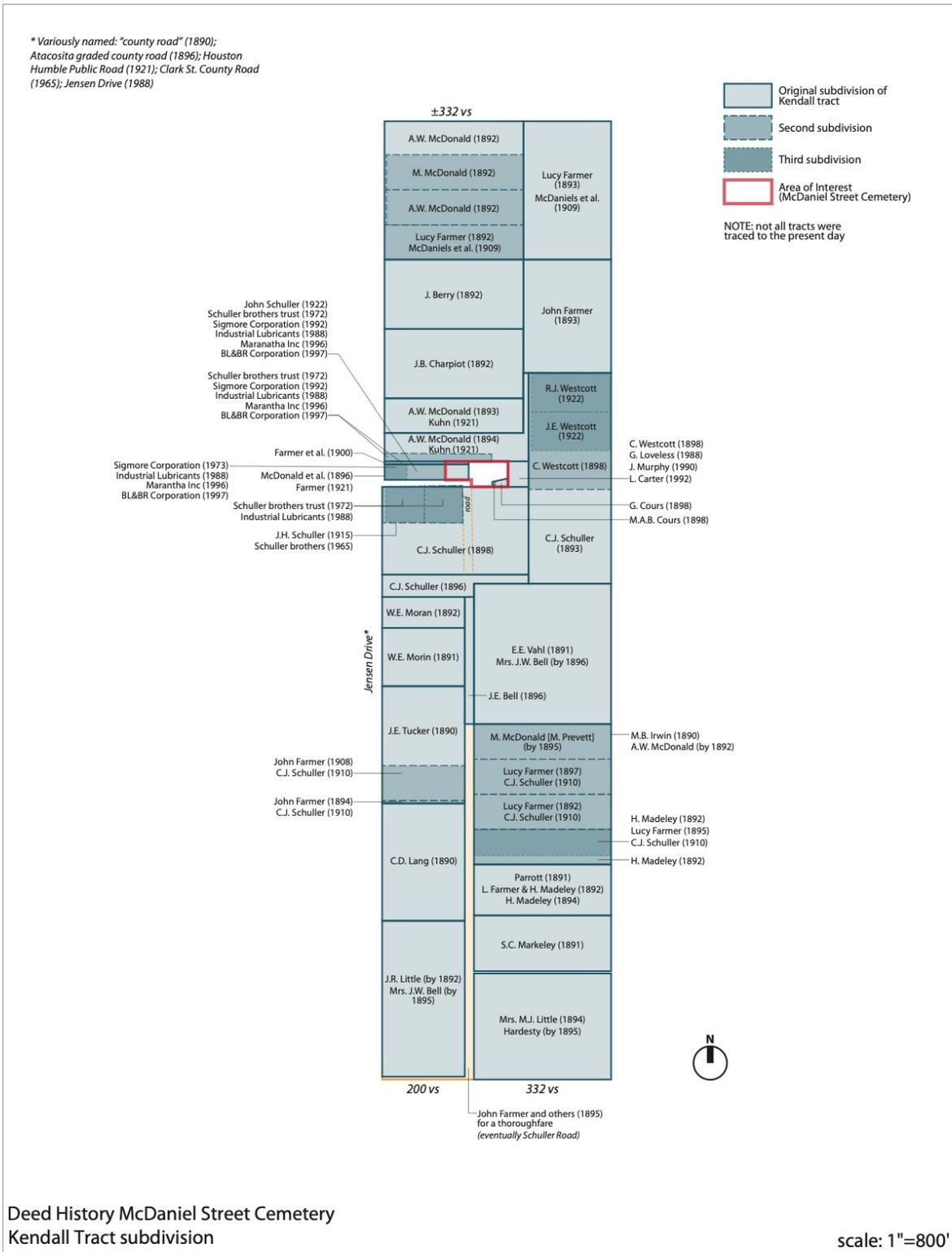


Figure 6. Subdivision of the Jennie Kendall Tract, based on Harris County deed records (McDoux Preservation)

At this point, having noted the sales of land around the cemetery, we will focus on those deeds which establish the boundaries of the cemetery.

In May 1896, the Westcott Family cemetery's western boundary was established for the first time in the deed records when the Kendalls sold a parcel to four neighbors: A. W. McDonald, A. J. Madeley, James Berry, and John Farmer. The boundaries of that tract begin at a stake in the east line of the county road 20 feet south of the A. W. McDonald's southwest corner, then "565 feet east to the R. D. Wescott cemetery [sic]," then south 104.5 feet to a stake, then west 565 feet to the public road and 104.5 feet north to the place of beginning.⁴⁸ It is not clear whether that 20-foot strip was intended to be or used as a road.

On September 24, 1900, John Farmer, A. W. McDonald, and James Berry jointly purchased from Jennie Kendall the 20-foot strip of land immediately to the north of the previous McDonald et. al. tract which was consolidated by John Farmer as described in the following paragraph, measuring 565 feet east-to-west.⁴⁹

John Farmer purchased Madeley's $\frac{1}{4}$ interest in the McDonald et. al. property for \$20 on July 12, 1897.⁵⁰ He purchased the remaining $\frac{1}{4}$ interest from each of the other co-owners in 1921. James Berry sold his interest to Farmer for \$55.70 on March 1, 1921,⁵¹ and A. W. McDonald followed suit a few weeks later, selling his interest to Farmer for \$118.20 on March 24, 1921.⁵²

Jennie Kendall sold a 13.14-acre tract to Julius Schuller per the deed recorded on Vol. 104, page 132.

Mrs. Augusta D. Schuller conveyed 3.0 acres out of this tract to J. H. Schuller (probably John H.) for \$750 on February 12, 1915: Beginning at an iron pipe set at the northwest corner of the 13.14-acre parcel, being on the east side of the Clark St. County Road, and the south side of a 4-1/2 feet road running eastwardly from the Clark St. Road to the Westcott Cemetery; then North 89 degrees East along the south side of said road 540.2 feet to a stake for the corner on the west side of a 60-foot road running south 1 degree East through said 13.14-acre tract, then South 1 degree East along the west side of said 60-foot road for 252 feet to a stake for a corner; then west 543 feet to a stake for the corner on the east side of the Clark St. Road; then north along the east side of the Clark St. Road 241 feet to the place of beginning.⁵³ On September 11, 1965, John H. Schuller conveyed to his sons (Harville A. Schuller, Allen R. Schuller, and Julius J. Schuller) that same three-acre parcel.⁵⁴

Note: The "4-1/2 feet road" mentioned here is now McDaniel Street, previously described as a 41.5-foot road. We believe that this number is an error and should be "41-1/2 feet road." The "60-foot road" is now Schuller Road.

⁴⁸ Harris County deed records, Vol. 84, page 539, file number 8480.

⁴⁹ Harris County deed records, Vol. 123, page 158, file number 30245.

⁵⁰ Harris County deed records, Vol. 101, page 56, file number 14477.

⁵¹ Harris County deed records, Vol. 473, pages 316–317, file number 54821.

⁵² Harris County deed records, Vol. 475, pages 26–27, file number 54839.

⁵³ Harris County deed records, Vol. 344, page 547, file number 161386.

⁵⁴ Harris County deed records, Vol. 6079, pages 73–76, file number C164901, film numbers 038-30-0723 through 038-30-0726.

John Farmer conveyed a portion of his property adjoining the Westcott Cemetery on April 8, 1922, **creating the western boundary of the McDaniel Street Cemetery as it appears today.** The parcel was sold to John Schuller and is described as: Beginning at James Kuhn's southwest corner on the east side of the Houston-Humble Public Road, then east along Kuhn's south line 409 feet to a stake for the corner, then south 104.5 feet (more or less) to a stake for the corner on the north line of the public road leading from the Houston-Humble Public Road to Westcott Cemetery, then west 409 feet to the east line of said Houston-Humble Public road to a stake for the corner, and finally north along the east line of said road to the place of beginning.⁵⁵

Later, Julius J. Schuller was declared mentally incompetent. His brother Allen R. Schuller was named his guardian and on March 14, 1972, the Harris County Court directed A. R. Schuller to sell the undivided 1/3 interest of Julius in the former McDonald et al/Farmer tract. Allen R. Schuller and Harville A. Schuller sold their interests in the tract as well, conveying the entire parcel to Thomas F. Ryan on June 9, 1972, with cash down and a vendor's lien for repayment to be retained by James H. Kepner, trustee. In this deed, the parcel is described as "Tract B of Exhibit A being Tract I and Tract II."

Tract I: "Beginning at a ½ inch iron rod at the Northeast corner of Jensen Drive (100 foot right-of-way) and McDaniel Street (41.5 foot right-of-way) for the southwest corner; thence North 0 degrees 02 minutes 43 seconds East, along East line of Jensen Drive 104.5 feet to a ½ inch iron rod for the Northwest corner; Thence South 89 degrees 38 minutes 45 seconds East, 408.99 feet to a ½ inch iron rod for the Northeast corner; Thence South 0 degrees 02 minutes 43 seconds West 98.48 feet to a ½ inch iron rod in the North line of McDaniel Street for the Southeast corner; thence South 89 degrees 30 minutes 40 seconds West along the North line of McDaniel Street, 409.00 feet to the place of beginning and containing 41,507 square feet of land."

Tract II: "Commencing at the northeast corner of Jensen Drive (100 foot right-of-way) and McDaniel Street (41.5 foot right-of-way); thence North 0 degrees 02 minutes 43 seconds East, along the East line of Jensen Drive 104.50 feet to a ½ inch iron rod for the Southwest corner and Place of Beginning; thence North 0 degrees 02 minutes 43 seconds East along the East line of Jensen Drive 20.00 feet to a ½ inch iron rod for the Northwest corner; thence South 89 degrees 38 minutes 45 seconds East 408.99 feet to a ½ inch iron rod for the Northeast corner; thence South 0 degrees 02 minutes 43 seconds West 20.00 feet to a ½ inch iron rod for the Southeast corner; thence North 89 degrees 38 minutes 45 seconds West 408.99 feet to the place of beginning, containing 8,180 square feet of land."⁵⁶ The vendor's lien was released on August 28, 1973.⁵⁷

Previously, John Farmer had conveyed to John Schuller a parcel that excluded the property to the west of the Westcott Family cemetery.

On May 18, 1973, Thomas F. Ryan (trustee) sold the McDonald et al/Farmer tract to Sigmor Corporation: A tract of land containing 15,509.25 square feet, "Beginning at an iron rod at the Northeast corner of Jensen Drive (100 foot right-of-way) and McDaniel Street (41.5 foot right-

⁵⁵ Harris County deed records, Vol. 503, pages 555–556, file number 88372.

⁵⁶ Harris County deed records, file number D616110, film numbers 145-39-1779 through -1786.

⁵⁷ Harris County deed records, file number E001029, file numbers 169-25-2220 through -2221.

of-way) for the Southwest corner; thence North 0 degrees 02 minutes 43 seconds East, along East line of Jensen Drive 104.5 feet to an iron rod for corner; Thence South 89 degrees 38 minutes 45 seconds East, 150.0 feet to an iron rod for corner; Thence South 0 degrees 03 minutes West 102.29 feet to the Southeast corner on the North line of McDaniel Street; thence South 89 degrees 30 minutes 40 seconds West along the North line of McDaniel Street, 150.0 feet to the place of beginning and containing 0.35604 acres of land.”⁵⁸

On August 12, 1988, Sigmor Corporation of San Antonio sold this tract to Industrial Lubricants Co., also of San Antonio, “with all fixtures and improvements located thereon” for \$10 “and other good and valuable consideration.” Tracts 1 and 2 are described separately.

Tract 1, containing 15,509.25 square feet: “Beginning at an iron rod at the Northeast corner of Jensen Drive (100 foot right-of-way) and McDaniel Street (41.5 foot right-of-way) for the Southwest corner; thence North 0 degrees 02 minutes 43 seconds East, along East line of Jensen Drive 104.5 feet to an iron rod for corner; Thence South 89 degrees 38 minutes 45 seconds East, 150.0 feet to an iron rod for corner; Thence South 0 degrees 03 minutes West 102.29 feet to the Southeast corner on the North line of McDaniel Street; thence South 89 degrees 30 minutes 40 seconds West along the North line of McDaniel Street, 150.0 feet to the place of beginning and containing 0.35604 acres of land.”

Tract 2, containing 371,099 square feet: “Beginning at a point on the East line of Jensen Drive (100 foot right-of-way) said point located North 0 degrees 02 minutes 43 seconds East, 104.5 feet of the intersection of said East line of Jensen Drive with the North line of McDaniel Street (41.5 foot right-of-way); thence North 0 degrees 02 minutes 43 seconds East along the East line of Jensen Drive a distance of 75.0 feet to a point for corner; thence South 89 degrees 34 minutes 23 seconds East a distance of 720.46 feet to a point for corner; thence South 0 degrees 02 minutes 43 seconds West a distance of 54.08 feet to a point for corner; thence North 89 degrees 38 minutes 45 seconds West a distance of 331.46 feet to a point for corner; thence South 0 degrees 02 minutes 43 seconds West a distance of 118.77 feet to a point for corner on the North line of McDaniel Street; thence South 89 degrees 30 minutes 40 seconds west along the north line of McDaniel Street a distance of 239.0 feet to point for corner; thence North 0 degrees 03 minutes East a distance of 102.29 feet to a point for corner; thence North 89 degrees 39 minutes 45 seconds West a distance of 150.0 feet to the place of beginning and containing 1.6322 acres of land.”⁵⁹

First filed on April 4, 1997, and corrected as of June 11, 1997, pastor Santiago F. Medina on behalf of the church known as Maranatha Asamblea de Dios, Inc. sold the 1.9978-acre tract of land known as “Tracts 1 and 2”, previously described in the deed with file number R-912317, to BL & BR Corporation for \$10.00 cash. The mailing address for BL & BR Corp. at that time was 3034 Helmsley Drive in Pearland. The tract is described as beginning at the intersection of the east right-of-way of Jensen Drive and the north right-of-way of McDaniel Street (“called 41.5 R/W”) and being the southwest corner of the tract; then north along the east ROW of Jensen Drive for 179.50 feet to a 5/8” iron rod at the northwest corner of the tract; then South 89° 44’ 04” East, along the common line of those tracts recorded in the deeds with file numbers N-

⁵⁸ Harris County deed records, file number D898856, film numbers 163-21-0645 through -0646.

⁵⁹ Harris County deed records, file number L819187, film numbers 125-79-2529 through -2533.

693533, S-047582, E-902626, J-655940, K-986335, P-897436, and J-880230, a distance of 719.3 feet to a 1" iron pipe at the northeast corner of the tract; then South 00° 48' 24" East, along the common line of the tract described in the deed with file number F-789050 for a distance of 54.30 feet to a 1" iron pipe and the most southerly southeast corner of the tract; then South 89° 57' 42" West, along the common line of the Cemetery for 331.41 feet to a 5/8" iron rod at the corner; then South 00° 02' 43" West along the common line of the Cemetery for 118.77 feet to a 5/8" rod in the north ROW of McDaniel Street and the most Southerly Southeast corner of the tract described; then South 89° 30' 40" West along the north ROW of McDaniel Street a distance of 389 feet to the point of beginning.⁶⁰

The southern boundary of the cemetery (which is also the north line of what is now McDaniel Street) was established by reference in a deed dated January 12, 1898, in which Jennie Kendall sells another parcel to C. J. Schuller, north of and immediately adjacent to his January 10, 1896 purchase. "Beginning at the northeast corner of a survey of 2.63 acres of land purchased by C. J. Schuller ... then west 984-1/6 feet along the north line of said 2.63-acre tract to its northwest corner on the east line of the Atascocita graded road, then north 573.5 feet along the east side of the road to the south side of a road 41.5 feet wide and running east to the Westcott Cemetery. Then east along the south side of that road at 629.6 feet past the southwest corner of said cemetery at 742.2 feet past the southeast corner at 984.6 feet to a stake in the east line of the unsold portion of the Kendall homestead tract, then south 590.5 feet along said line to the place of beginning."⁶¹

Note that the distances of each side of the parcel as described in this deed do not create a rectangle. This may be because the numbers are correct, but the parcel is in fact not rectangular, because it was measured incorrectly, or because the measurements were recorded incorrectly in the deed record.

Harris County's "block books" show the original alignment of McDaniel Street, where it extended east of Schuller Road. According to Harris County records archivist Sarah Jackson, this sheet may have been drawn as early as 1930. It was scanned in 1997.

⁶⁰ Harris County deed records. The original deed was file number S492830 with film number 412-41-1698. That was updated twice for corrections: first to file number S40998/film number 512-62-2809, and finally to file number S395040/file number 512-50-3484 through -3485 with Exhibit A as film numbers 513-41-1700 though -1701.

⁶¹ Harris County deed records, Vol. 104, page 132, file number 16831. (C. J. Schuller #3)

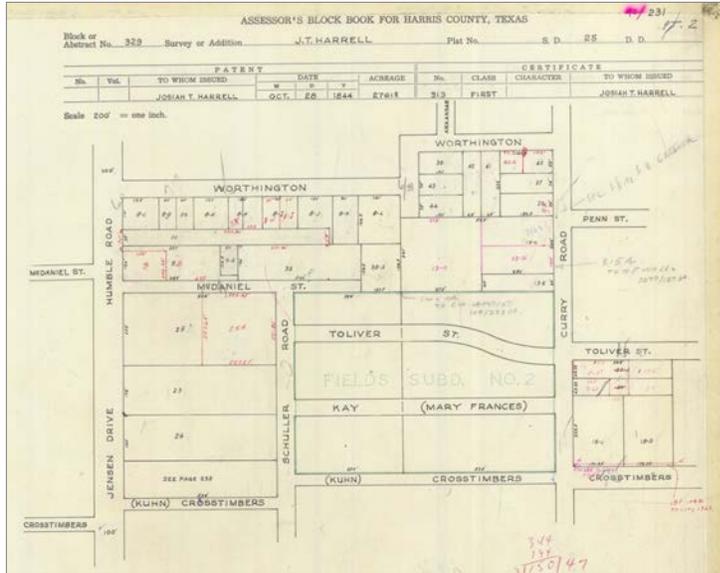


Figure 7. Harris County tax office “block book” volume 432, page 231 (Harris County Tax Office)

The eastern boundary of the cemetery was established by reference in a deed dated October 11, 1898, but not recorded until November 17, 1941. In this deed Jennie Kendall sold to Mrs. Christina W. Westcott for \$100 the parcel immediately east of and adjacent to the cemetery, described as follows: “Beginning at a stake on the west side of Hampton Westcott’s homestead and being the southeast corner of one of A. W. McDonald’s purchases from Kendall & wife. Then south 153.5 feet along Hampton Westcott’s west line to the northeast corner of C. J. Schuller purchase from Jennie Kendall. Then west 137.5 feet with Schuller’s north line to the southeast corner of land sold by Jennie Kendall to G. Cours. Then north 158.5 feet along the east line of G. Cours and the east line of a cemetery to the northeast corner of said cemetery to the south line of A. W. McDonald’s purchase from Kendall & wife, then east 172.5 feet along said south line to the place of beginning.”⁶² Christiana (Christina) Schuller, daughter of C. Julius and Augusta (Moffett) Schuller, married Hampton Westcott. Christiana Westcott died on March 26, 1941,⁶³ so presumably this deed was filed in order to facilitate the settling of her estate.

Note that the distances of each side of the parcel as described in this deed do not create a rectangle. This may be because the numbers are correct, but the parcel is in fact not rectangular, because it was measured incorrectly, or because the measurements were recorded incorrectly in the deed record.

The “G. Cours” parcel was sold by Jennie Kendall to Gaston Cours on March 2, 1897: Beginning at a stake in the southeast corner of the Westcott Cemetery on the north line of land previously sold to C. J. Schuller, then north 24 or 29 feet along the east line of said cemetery, to the southwest corner of another cemetery, then northeast 108 feet to the southeast corner of the

⁶² Harris County deed records, Vol. 1223, page 465, file number 58438.

⁶³ Texas Department of Health standard certificate of death no. 14854, received by the Bureau of Vital Statistics on April 3, 1941 (Texas Department of State Health Services; Austin Texas, USA)

same, then south to a corner on C. J. Schuller's north line, then west 105.5 feet to the place of beginning.⁶⁴ The total area was 0.11 acres and appears to have been a trapezoidal shape.

Gaston Cours—almost exactly a year later, on March 9, 1898—conveyed an approximately 400-square-foot plot of land beginning at a stake on the east line of the Westcott Cemetery and 9 feet north from its southeast corner, then north 20 feet along the east line of the cemetery to the northwest corner of the 0.11-acre Cours tract, which is also the southeast corner of another cemetery east of and adjoining the Westcott Cemetery, then northeast along the south line of the other cemetery for 20 feet to a corner, then south (parallel to the east line of the Westcott Cemetery) to a corner (“mine”?) from C. J. Schuller's north line. Then east 20 feet parallel with Schuller's north line and then nine feet to the place of beginning.⁶⁵

On March 10, 1988, Oscar W. and Opal L. Loveless sold this tract to their son, Gary W. Loveless., for \$10. It was “Tract I” of three parcels included in the transaction. It is described as “the same tract of land conveyed to Mrs. Christina W. Westcott by deed dated April 11, 1898, recorded in Vol. 1223, page 465 Deed Records.” The boundaries are essentially the same except with references to then-current legal descriptions and owners. “Beginning at a stake on the west line of Hampton Westcott's old homestead tract⁶⁶ (now David M. Cummings Jr. 1.64 acre tract) at the southeast of a tract formerly owned by A. W. McDonald (now the southeast corner of Raymond Chronister's tract) for the northeast corner of this tract; thence south along said Cummings west line, a distance of 153.50 feet, more or less, to Cummings' southwest corner on the north line of lot 5, Field subdivision #2, for the southeast corner of this tract; thence west along the north line of lots 5 & 4, Field Subdivision #2, a distance of 137.50 feet, more or less, to the east terminus of McDaniel Street, for the southwest corner of this tract; thence north along the said east terminus of McDaniel Street and the east line of a cemetery, a distance of 158.50 feet, more or less to the northeast line of the said cemetery on the south line of Chronister tract; thence east along Chronister's south line, a distance of 137.50 feet to the place of beginning, and being the same tract conveyed to Max Marcus by deed recorded in Volume 1356, page 2, deed records.”⁶⁷

The following map shows the resulting perimeter boundaries of the McDaniel Street Cemetery as it appears today.

⁶⁴ Harris County deed records, Vol. 104, page 383, file number 17705.

⁶⁵ Harris County deed records, Vol. 104, page 384, file number 17706.

⁶⁶ “Hampton Westcott's old homestead tract” may be the deed mentioned in Vol. 104 p. 223, which is same as the deed in Vol. 57 pp. 555-556, the north 10 acres of the 18-acre Schuller #1.

⁶⁷ Harris County deed records, file number L628193, film numbers 114-65-2223 through -2227.

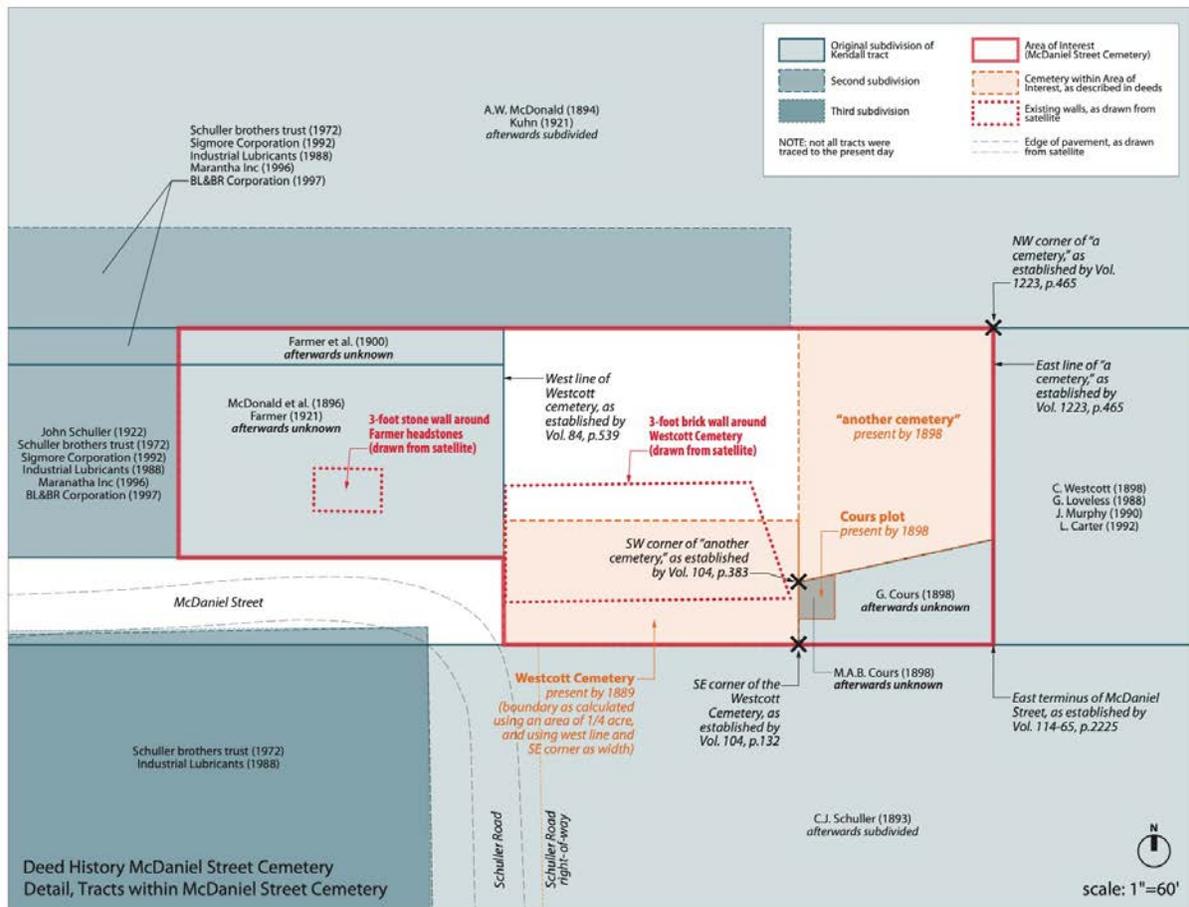


Figure 8. Major deed transactions that created the boundaries of the Westcott Cemetery as it appears today (McDoux Preservation)

