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**CULTURAL RESOURCES ASSESSMENT
OF THE PROPOSED
SIENNA PLANTATION DEVELOPMENT**

Submitted to:

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1.0 INTRODUCTION

The firm of Johnson Corporation contracted with Espey, Huston & Associates, Inc. (EH&A) to conduct an historical assessment of the entire Sienna Plantation Development, and a prehistoric archaeological assessment restricted to Phase I within the Development (Fig. 1). Fieldwork for both assessments was conducted by EH&A personnel during the week of 30 July 1984. This report presents the results of our research and provides recommendations for further work. The EH&A staff member directly responsible for the fieldwork, report content, and report writing is Wayne P. Glander.

Three specific research goals were outlined for the project. The first goal was to review and update the literature and record search previously conducted by EH&A (1981), and to interview local informants in the area who were thought to be knowledgeable of the local history and prehistory of the general project area. Based upon data obtained from the first goal, the second goal was to field check selected areas in Phase I which were thought to have a high probability for prehistoric site occurrence, and to locate all identified historic sites older than 50 years within the total development area. Based upon the first two goals, the third goal was to identify cultural resources which may be potentially eligible for inclusion in the National Register of Historic Places (NRHP), and to make recommendations for further work. For the purpose of this report, a site is defined as the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself maintains a historical or archaeological value regardless of the value of any existing structures (Derry, Jandl et al. 1977:6).

The program of site definition was conducted in accordance with the Advisory Council on Historic Preservation regulations (36 CFR Part 60.6, U.S.



Department of the Interior), which present the guidelines for determining eligibility of a cultural resource for nomination to the NRHP. These regulations state:

The quality of significance in American history, architecture, archaeology, and culture is present in districts, sites, buildings, structures, and objects of State and local importance that possess integrity of location, design, setting, materials, workmanship, feeling and association and:

1. That are associated with events that have made a significant contribution to the broad patterns of our history; or
2. That are associated with the lives of persons significant in our past; or
3. That embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
4. That have yielded, or may be likely to yield, information important in prehistory or history.

This study was done in compliance with the Antiquities Act of 1906 (Public Law 59-209), the Historic Sites Act of 1935 (PL 74-292), the National Historic Preservation Act of 1966 (PL 89-665) as amended by PL 94-442 (1974), the National Environmental Policy Act of 1969 (PL 91-190), Executive Order 11593, the Archaeological and Historic Preservation Act of 1974 (PL 93-291), Procedures for the Protection of Historic and Cultural Properties (36 CFR 800), the Archaeological Resources Protection Act of 1979 and the Housing and Community Development Act of 1974 (42 United States Code 5301).

2.0 CULTURAL PERSPECTIVE

2.1 PREHISTORIC PERSPECTIVE

The project area, located at the confluence of the central, coastal and east Texas cultural regions, has a rich potential for yielding both prehistoric and historic sites. Generally, the cultural sequence reveals a pattern of cultural development from small migratory hunting and gathering bands to complex tribal societies.

2.1.1 Paleo-Indian (10,000 B.C. - 6,500 B.C.)

The known prehistory of the project area is generally assumed to have commenced with the Paleo-Indian period (late Pleistocene), beginning prior to 10,000 B.C. and continuing to circa 6,500 B.C. Subsistence may have been dependent upon hunting now-extinct Pleistocene fauna including mammoths and a species of bison (Bison antiquus figginsi) and may have been augmented by the utilization of plants, small animals and marine life. Diagnostic tool kits exhibited a variety of finely chipped, sometimes fluted, lanceolate projectile points such as Clovis, Folsom, Scottsbluff, Angostura and Plainview (Willey 1966).

At least one Paleo-Indian point, an Angostura, has been reported in Fort Bend County (Site 41FB2) (Ralph 1978:26). Southwest of the project area, Clovis points were reported from surface collections in Aransas, Calhoun and San Patricio counties (Suhm et al. 1954). An Angostura point was recovered during a surface collection at the Prairie Dog Site (41SP50) in San Patricio County during the Corbin survey (Corbin 1963). Friesenhahn Cave, near San Antonio, yielded many crudely chipped tools in association with extinct fauna (Wormington 1957). East of the project area, at the Doering site near Houston, one Clovis point, recovered from a depth of 3 m (10 ft), was overlain by levels containing Archaic contracting stemmed

points (Bryan 1965). North of the area, Sorrow and Cox (1973) also recorded an Angostura point from site 41BZ26 in Brazos County.

2.1.2 Archaic (6,500 B.C. - A.D. 1,200)

The Archaic period is recognized during the early and middle Holocene by intensive human utilization of the landscape. Hunting and gathering provided a subsistence of deer and small mammals, along with seasonally available vegetal foods. Along the coast, Archaic sites are presented by shell middens which contain animal bones, lithic debris and other artifacts which suggest exploration of the coastline (Campbell 1960). Sites located away from the immediate coastal areas are noted by Skinner and Humphreys (1973:27) to be located near permanent water sources, and are marked by lithic debitage, chipped stone tools, pecked and ground stone tools, as well as mussel shells and burned animal bones. In inland southeast Texas, it has been suggested that Archaic period sites are concentrated on the crests of ridges overlooking stream valleys (Shafer and Stearns 1975:8). Unfortunately, most of these sites are found on the surface with little subsurface context.

Along the central portion of the Texas coast, the Archaic period is represented by the Aransas focus, beginning around 2000/3000 B.C. (Campbell 1947). Typical sites are shell middens with assemblages of various dart points including: Ensor, Catan, Matamoros, Palmillas, and Bulverde-like; and shell tools, but lacking ceramics (Corbin 1974). The focus was initially documented from the Johnson site (41AS1), excavated in 1947 by T. N. Campbell.

A discussion of the Aransas focus is presented by Corbin (1974). Essentially a reexamination of Archaic materials from the Texas Coastal Bend area, including such sites as Kent-Crane (41AS3) (Campbell 1952) and Johnson (41AS1), Corbin (1974) identified an early Archaic phase or complex for the Kent-Crane site which was noted by the Matamoros, Palmillas, and Bulverde points, and a later Archaic phase identified for the Johnson site and upper levels of the Kent-Crane

site. Ensor, Catan, and Darl-Fairland point types were identified for this later phase.

2.1.3 Neo-American (A.D. 1,200 - 1,500)

In general, the Neo-American of the project area represents a continuum of the late Archaic with the addition of pottery to the artifact inventory. Sites continue to be numerous and are usually located on sandy knolls or ridges and along the edges of stream valleys such as the Brazos River (Shafer, et al. 1975; Sorrow and Cox 1973). With the exception of the presence of ceramics, there appears to be very little change in the archaeological record, and it is believed that the basic economic activities continued to be centered on an efficient type of regionally-oriented hunting and gathering subsistence without change in the settlement pattern. Findings from Lake Conroe (Shafer 1968), Lake Livingston (McClurkan 1968), the Resch site (Webb et al. 1969) and the Gossett Bottoms site (Story 1965) indicate that the utilized resources included (but were not limited to) hickory, walnut, pignut, deer, raccoon, tortoise, bison and fish.

The lithic assemblage of the early Neo-American continues to be dominated by contracting stemmed projectile points such as the Gary and Kent types, and except for the presence of gouges and adzes in the post-oak savannah region in the northern portion of east Texas, diagnostic unifacial tools are generally absent (Shafer 1975:249-250).

Ceramic sequences worked out along the upper Texas coast in the Sabine Lake and Trinity delta areas suggest that the ceramics were principally an indigenous development, although they were probably technologically related to the Tchefuncte of the lower Mississippi. Almost all of the early pottery of southeast Texas is uniform in character, consisting of sandy-paste hemispherical bowls and cylindrical jars with round and sometimes flat bases. Except for the coastal areas,

decorations are usually rare. When decorations occur, they are usually in the form of incised lines, punctation, incised punctation and lip notching (Shafer 1974:251).

During the Neo-American, the archaeological sequence shows a definite and substantial interaction between the peoples of southeast Texas and the Caddoan cultures to the north. While sandy-paste wares continue to be the dominant utilitarian pottery of the indigenous population, plain and decorated Caddoan wares are also found. The lithic industry also exhibits a pronounced change as smaller tools become more common, and the bow and arrow, possibly a Caddoan introduction (McClurkan 1968:109), replaces the atlatl thrown spear. The larger contracting stemmed Gary and Kent dart points were replaced by smaller arrow points such as the Alba, Perdiz and Cliffon types.

The exact relationship between the indigenous cultures and the Caddos is not fully understood. There is little data on the settlement patterns, burial practices or social organization for the inland non-Caddoan populations (Shafer, et al. 1975:21). Shafer (1974:8), noting the presence of a variety of ceramic types in the Livingston and Conroe areas, has suggested that there may have existed a long-standing and intensive interaction between the ancestral inland Atakapans, the Caddo and the coastal Atakapans, possibly through a trade mechanism. Apparently, the indigenous populations did not adopt the rigid class structure usually associated with the Caddo, and artifacts and burials indicative of special social status are absent (Shafer, et al. 1975:22).

On the central Texas coast, the Rockport culture has been recognized for the Neo-American and Historic periods (Corbin 1963), mainly from archaeological surveys by Martin and Potter (n.d.), and Sayles (1935); from excavated Aransas focus sites which were often overlain by Rockport components (Campbell 1956); from surface collections near Corpus Christi (Campbell 1956); and from the excavated Live Oak Point site in Aransas County (Campbell 1958). Sites, often shell middens, are found from the Brazos River to Baffin Bay and are characterized by



arrow points and pottery (Corbin, 1974). The culture represents the archaeological remains of a coastal group of Coahuiltecans known as the Karankawa (Newcomb 1961). This focus extends from about A.D. 100 until the extinction of the Karankawa in the mid-nineteenth century (EH&A 1978).

Artifacts from the Rockport culture sites include: several arrow point types common to central Texas, Matamoros and Catan-like dart points, grooved sandstone shaft straighteners, shell containers, jewelry, cutting tools, and lumps of asphaltum collected from area beaches (Suhm et al. 1954). Decorated pottery types are polychrome (Calhoun 1964), asphaltum painted black on gray (Fitzpatrick et al. 1964) and scallop shell scored (Calhoun 1962).

After European contact, the Karankawa were quick to assimilate trade goods. Many sites contain such artifacts of European origin as glass beads and arrow points, as well as clay pipes, china, metal tools and musket balls (Newcomb 1961).

The most common site of the central Texas coast is the shell midden. They may contain Aransas and/or Rockport materials, are usually circular to oval, and vary widely in area covered. Martin and Potter (n.d.) note that nearly every location suitable for human habitation exhibits shell midden materials.

On the upper Texas coast, east of the Brazos River, the Galveston Bay Focus has been defined, largely on the basis of sites located west of Houston in the Addicks Basin (Wheat 1953, Suhm et al. 1954). Ceramic typologies have figured heavily in establishing a cultural chronology for the upper coast (Aten and Bollich 1969; Aten 1979; Ambler 1970, 1973). It should be pointed out that there is no distinct discontinuity in the archaeological record between the upper and central Texas coasts. The boundary of the Brazos River, alluded to above as a cultural boundary between the Galveston Bay Focus and the Rockport Focus, is, at best, artificial. As a result, it is expected that the Oyster Creek area (and the project area) would share or manifest cultural attributes of both coastal designations.



Goose Creek Incised pottery, indicative of the Galveston Bay Focus (Suhm and Jelks 1962) is, for example, described from the Albert George site (41FB13) (Walley 1955), as well as sites 41FB2 (TARL site files), 41FB7 and 41FB10 (Ralph 1978).

2.2 HISTORIC PERSPECTIVE

2.2.1 Early Europeans

The first Europeans to enter inland areas of southeast Texas probably encountered, in addition to the Caddo, a number of Atakapan-speaking Indians of the Bidai, Deadosé, Patiri and Akokisa groups (Newcomb 1961:315-329).

Ethnographic accounts of some of the inland Atakapan groups, particularly the Bidai, note that maize was cultivated and that wild plants continued to be an important subsistence item. Hunting was directed to all varieties of local game, although the Bidai are known to have forayed to the prairies to hunt bison. The bow and arrow were the primary weapons, although the blowgun may also have been utilized (Shafer 1974:20).

Ethnographic accounts of the Atakapan material culture which might be preserved archaeologically are fragmentary and incomplete. Compounding the problem of material culture identification is the fact that each group's tool inventory differed slightly depending on that group's contacts with other peoples and with their geographical location. Both the Bidai and Akokisa are known to have manufactured pottery, although much of their pottery was apparently obtained in trade with other tribes (Newcomb 1961:325). European trade goods commonly found in the Caddo area are rare on inland Atakapan sites (Shafer 1974:20), even though the Bidais and Akokisas are known to have had contact with the French and Spanish.

Along the coast, European contact with the Karankawa began in 1528 with the Narvaez Expedition of which Alvar Nunez Cabeza de Vaca was a treasurer.



When most of his party died of disease or starvation, de Vaca and three of his companions were taken prisoner by the Karankawa. De Vaca managed to establish himself as a shaman and he was eight years among the Karankawa and other native tribes before he was finally able to make his return to Mexico. During his time among the Indians, de Vaca was able to travel throughout much of their territory. From his journal, we have learned most of what we know about the indigenous peoples of the Texas coast (Newcomb 1961).

The Karankawa were not visited by Europeans again until 1685, when the Frenchman LaSalle landed in Matagorda Bay with some three hundred colonists. LaSalle moved up the bay and established Fort Saint Louis on the banks of Garcitas Creek.

Upon hearing the news of a French fort in Matagorda Bay, the Spanish sent an expedition led by Alonso de Leon to destroy it. However, when de Leon arrived, all of the colonists, except a few who had escaped to a French colony in Illinois, had either been killed or captured by the Karankawa (EH&A 1978).

Spanish influence of the area increased with the establishment of Presidio La Bahia and Mission Espirita Santo de Muniga on the site of Fort Saint Louis in 1722. These establishments were moved northwest, up the Guadalupe River in Calhoun County in 1726 and finally located on the San Antonio River, near present day Goliad, in 1749 (Mallouf et al. 1973).

By the early nineteenth century, a large number of Americans had immigrated to Texas. As the need arose, ports were established along the coast. One of these was called Indian Point, later changed to Indianola, which was founded by German immigrants in the early 1840s. Located on the west side of Lavaca Bay, by 1855 it had become one of the major export ports on the Texas coast for gold and silver mined in Mexico.



2.2.2 Fort Bend County

Fort Bend County was named after an alleged frontier fort or outpost located in a large bend of the Brazos River. The location of the outpost was selected by Stephen F. Austin and eventually became the nucleus of settlement of the Old Three Hundred, a reference to the colonists who settled in the area as the result of a land grant given to Moses Austin by the Mexicans on 17 January 1821 (Wharton 1939:8). The structure was, in fact, not a fort, but simply a log cabin which was only temporarily occupied by numerous people seeking shelter (Wharton 1939:15). A community eventually evolved in the big bend of the river and was eventually absorbed by the present-day city of Richmond. Originally, Fort Bend County was a part of Austin County; however, in 1837 Fort Bend County was created with Richmond as the county seat. A Texas State Historical Marker now marks the location of the original Fort Bend Settlement in Richmond.

When the county was created in 1837, no more than 500 white people were thought to live in the county, and an unknown number of Black slaves. With the development of plantations however, the population rapidly increased. By 1850, about 1,000 white and about 1,500 black people were known to live in the area (Wharton 1939:120). By 1860, population growth had spurted to over 2,000 whites and over 4,000 blacks (Wharton 1939:153). The population growth was due in large part to the prosperous economy sustained by the development of plantations which grew around the early sugar industry in the area. Because of the need for extensive manpower in running these early plantations, blacks outnumbered the white population by about two to one in the middle nineteenth century.

The knowledge of sugar cane cultivation was undoubtedly a carryover from immigrants from the east, especially Louisiana. Between the late eighteenth century and the middle nineteenth century, the sugar industry in Louisiana was flourishing (Johnson 1961:10). Clopper (1909:58-59) notes that as early as 1828 sugar and cotton were being turned out in Louisiana in sufficient quantities to



ensure a sufficient supply for the general population. William Stafford, one of the original Old Three Hundred who settled on Oyster Creek north of the project area, is noted by Johnson (1961:11) to be the first immigrant to grow sugar cane commercially. Stafford erected his mill in 1834. The mill was operational until it was destroyed by Santa Anna's army as they marched through Fort Bend County north of the project area in 1836 (Johnson 1961:11-12).

As a result of the early success of Stafford's mill and other early experimenters in the growing and processing of sugar cane, Fort Bend County and surrounding counties along the Brazos River became recognized as prime sugar cane lands by the 1840s. Coupled with a worm infestation which caused a decline in cotton production in the early 1840s, sugar cane growing and processing became the dominant plantation industry by the middle nineteenth century. By the time Texas was declared a state in 1846, the sugar industry in the "sugar bowl", as the Fort Bend County area was being called, was exporting sugar from Texas (Johnson 1961:17). By 1859, approximately 35 plantations were processing sugar, many of which were, by then, steam powered (Johnson 1961:25).

The following paragraphs, excerpted from Johnson (1961:24-25), provide a description of the sugar making process.

The field hands stripped the leaves from the cane, cut off the unripe joints, and severed the stalk from its roots. They worked speedily, for all the cane had to be cut and ground within about ninety days or it would be damaged by cold weather. As the cutters passed down a row, other hands picked up the stalks and carried them to wagons, which in turn transported them to the mill.

With the beginning of grinding, the planter became one of the busiest men on the plantation. He spent much of the time going from place to place seeing that all progressed properly. More often he hung over the kettle, to see what the newly expressed juice promised.



At the mill the cane was placed upon a carrier which moved it to the rollers. The carrier was an inclined plane about forty to fifty feet long and about three feet wide. It was constructed of chains with crossbars of wood inserted into the links. The carrier deposited the cane in a wooden hopper from which it passed to the rollers by force of gravity. The crushed cane fibers, called bagasse, went from the rollers down a trough which usually led outside the building. It was then hauled away as useless material. The juice passed into large vats, usually lined with copper or lead, where the clarification process began. In these large vats the juice was strained, by various methods, to remove the larger impurities. From these first vats the juice passed into a series of open kettles where the remainder of the clarification and also evaporation was accomplished.

A "set of kettles" was usually four to six large cast or wrought iron kettles arranged in a line and set in solid masonry. Louisiana sugar makers referred to the various kettles by individual names: (from largest to smallest) the grande, the propre, the flambeau, the sirop, and the batterie. The grande received the juice first from which it was passed on to the progressively smaller kettles. The flue of the furnace transmitted heat under all of the kettles before discharging outside of the building. The furnace itself was located under the last kettle.

The first kettle was filled with juice flowing from the reservoir vats. A mixture of slaked lime and cane juice, as a clarifying agent, was poured into the grande. As the juice began to boil a greenish-gray scum formed on the surface and became thicker as the temperature rose. As soon as a watery vapor forced itself through the scum skimming was begun. The scum was swept into an adjoining vat and carried away. When the skimming was completed, the juice was ladled into the next kettle, where scum not removed in the first was boiled up. Thus the juice passed from kettle to kettle until it had passed through the entire set. Above the kettles a steam chimney was used to carry away vapor from the rapidly evaporating cane juice.

The last kettle, the batterie, received the concentrated juice which has been skimmed and tempered with lime. When the juice reached the proper consistency for granulation, it was ladled into cooling troughs, where it formed into crystals.

From six to fourteen hours were required for complete granulation.

From the coolers, the granulated sugar was carried to waiting hogsheads, which were placed upon timbers above molasses cisterns. Within twenty to thirty days the molasses had drained out of the hogsheads, and refined sugar was ready for shipment.

The advent of the Civil War and the eventual legislation which freed the slaves brought a slow-down in the developing sugar industry. Although no campaigns of the war were waged in Fort Bend County, the loss of manpower to the war effort was significant. Coupled with the emancipation of the slaves, many plantations could not afford to operate at pre-war levels. To cope with the problem of an inadequate labor supply, cane growers throughout the "sugar bowl" turned to the practice of leasing convict labor. By 1875, at least two planters in Fort Bend County were utilizing convict labor, and by 1880 nearly 400 convicts were being leased by plantation owners in Fort Bend County (Johnson 1961:41-43). The lease system continued, with modifications, into the early twentieth century when growing public resentment of convict labor forced the closing of the system. Coupled with the growing competition of foreign sugar, the sugar industry, as a viable plantation lifestyle, began to swiftly disappear. By 1892, there were only 14 operational sugar houses in Texas, and by 1909, there were only ten (Johnson 1961:53). Cotton as a cash crop gradually replaced much of the sugar crop, along with grains such as rice and corn, and individual farms displaced the giant plantation grower. The single carryover from the sugar industry in Fort Bend County is the Imperial Sugar Company of Sugarland, Texas. Dating back to the 1840s (Imperial Sugar 1966), the mill is now one of the leading sugar producers in the country.

2.2.3 History of the Project Area

The Sienna Plantation Development lies within the area originally settled by Stephen F. Austin's Old Three Hundred colonists in 1824. Three separate leagues

granted to Thomas Barnet, David Fitzgerald, and William Hall are included within the Development project area (Fig. 2, see fig. pocket). A census taken in 1826 classified Hall as a farmer and stock raiser (Webb 1952:I, 757). David Fitzgerald settled the league immediately north of William Hall. Crops were reportedly grown in the Fitzgerald league as early as 1825, prior to his death in 1832. Thomas Barnet was a large landowner in his time. Originally granted a league immediately above Fitzgerald's, Barnet aquired, by marriage in 1825, the Spencer League located west of the City of Richmond (Wharton 1939:37). In 1830, Barnet was also granted a league in Washington County. Wharton (1939:37) also notes that Barnet was a signer of the Texas Declaration of Independence and was a member of the Congress of the Republic of Texas. Barnet was known to have lived on the Spencer League after the Texas Revolution.

During the 1840s, part of the Fitzgerald League (and other leagues not in the project area as well) had been sold to Jonathan D. Waters (Sowell 1904:353; Wharton 1939:138), who had arrived in Texas in 1840 from South Carolina. Settled in the Fitzgerald league by 1850, Waters was known to have the largest cotton and sugar plantation in Fort Bend County (Wharton 1939:138), including a sugar mill and a brick yard, both of which were built about 1849 (Sowell 1904:352). At least 500 negroes were recorded as working on the plantation (Wharton (1939:138). In 1850, Waters wrote about his plantation output:

I have no doubt that I shall make at least 300 hogsheads, averaging 1500 pounds to the hogshead. My cane is fully equal to that of last year. I am now making from eight to ten hogsheads every twenty-four hours and have a sufficiency of hands to grind all the time, night and day, never stopping except to clean out the boilers. (Johnson 1961:26).

Wharton (1939:138) also references the Waters plantation homesite, which is described as "... a brick mansion on the high bank of the Brazos just where the upper line of the David Fitzgerald League reached the river a few hundred feet from where many years later the Santa Fe Railroad bridge spanned the



river." The Waters homesite is also the known location of the cemetery of Waters' first wife, Sarah Elizabeth, who died in 1848; his second wife, Clara Byne, who died in 1860; and his brother. An Italian marble monument now marks the burial of Clara Byne. A small marker marks the burial of his first wife. The cemetery, the homesite location, brickyard location, and sugar mill are all within the property boundaries of Sienna Plantation. However, the cemetery, homesite, and brickyard locations are outside of the levee system.

Upon the death of Waters in the 1860s, the property was willed to Thomas Pierce, and in 1872, T. W. House bought the former Fitzgerald League property from Pierce (Sowell 1904:353-354). Affected by the post-Civil War manpower decline, House was a proponent of the convict labor leasing system. In 1880, 35 convict laborers were listed as working on the House Plantation. In 1890, in response to the declining sugar industry, House was among those who formed the Texas Sugar Growers Association, and became its first treasurer (Johnson 1961:51). By 1910, the House Plantation was among the remaining six plantations who milled sugar, with an annual output of 4,000,000 pounds of sugar (Johnson 1961:57). The sugar operation on the House property steadily declined and by about 1929 the operation was thought to be out of business (Col. J. Price, personal communication).

At or about this time, the House Plantation was sold to T. H. Scanlan, a former mayor of Houston, Texas (Miller 1982). After acquiring the property, the Scanlans moved their plantation home from its Houston location to its present location (Cenacle Retreat) east of Lake Sienna (Col. J. Price, 1984) (Figs. 1, 3). According to Rufus Gonzales, caretaker of the Sienna Plantation, a wooden "main house" was displaced during the course of this procedure (Gonzales 1984). The age or family association of this alleged former structure was not determined. In 1948, the House plantation was willed to the Catholic Foundation, who, in 1961, sold it to the present owners of the property, Fuqua Industries, Inc., of Rosharon, Texas (Col. J. Price, 1984).

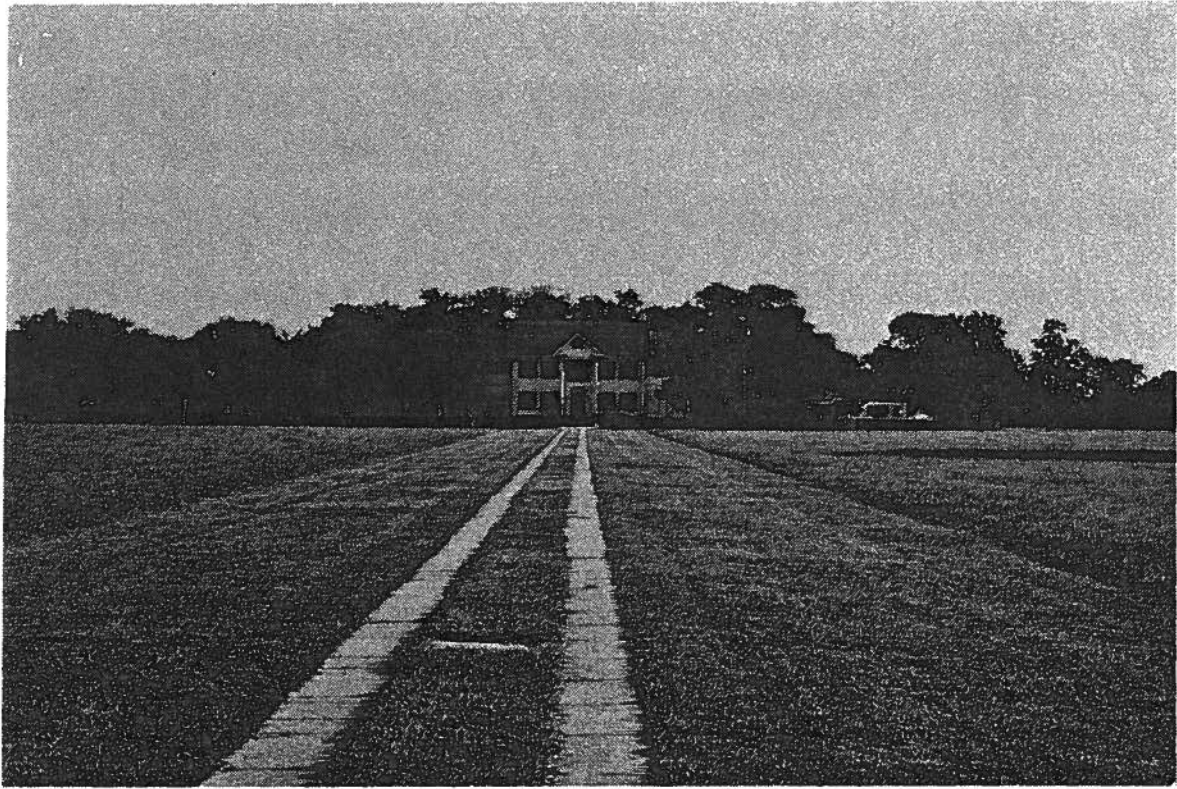


Figure 3. Sienna Plantation House, View to North



2.3 PREVIOUS INVESTIGATIONS

No previous cultural resource investigations have been conducted within the project area, and only a limited few have been conducted in Fort Bend County itself. As a result, only 66 sites have been recorded in the files of the Texas Archeological Research Laboratory (TARL). The first site (41FB1) was recorded possibly as early as the 1930s (TARL site files). Descriptive and locational data are severely restricted, however. The 1940s and 1950s saw few additional sites added to the site files. About 1940, site 41FB3 was located near the town of Fulshear (TARL site files). The site consisted of a human skull and a shell pendant. In 1952, site 41FB2, located in the southeastern part of the county along Big Creek, was discovered by amateurs (TARL site files). As many as 100 burials were reported associated with incised ceramics, animal bones, and a boatstone or atlatl weight (Ralph 1978:26). An Angostura point was also identified from the site, which is now totally destroyed (Ralph 1978:26). Also in the 1950s, Raymond Walley recorded seven sites (41FB11-17) located along Big Creek (Walley 1955). At least three of these sites were tested by Walley (1955). The first site (Albert George, 41FB13) produced burials associated with conch shell pendants, lithic points, bone awls, an atlatl weight allegedly imported from the Ouachita Mountains of Arkansas, and Goose Creek Incised ceramics. The second site (41FB16) recovered untyped projectile points; the third site (41FB17) recorded extensive midden deposits which contained bone, lithic, and ceramic artifacts.

It was not until the 1970s that additional work was conducted in Fort Bend County. In 1971, the Texas Water Development Board conducted a cultural resources analysis of the coastal areas of Texas (Briggs 1971). Basically a literature search to determine site potential in the developing areas of the coast, the report re-recorded seven of the then nine recorded sites in Fort Bend County. In conjunction with data from the coastal counties, Briggs (1971:33) recommended that archaeological surveys be conducted for all watershed and flood prevention projects.



In 1972, the Texas Archeological Salvage Project recorded three sites in the county (Dillehay and Mallouf 1972). Lithic debitage and a Williams point was recorded from site 41FB18. From the second site (41FB19), five lithic flakes were found and an expanding stem dart point; the third site (41FB20) contained a single Perdiz point. All three sites were documented as destroyed. In 1975, an alleged Late Archaic site was located by the Texas Archaeological Society between Lester and DeWalt (TARL site files).

The largest survey to date in the county was conducted by the Texas Parks and Wildlife Department in 1977 for the Hale Ranch State Park (Ralph 1978:24-33). Located along Big Creek, twelve previously unrecorded sites were documented (41FB5-10, 41FB21-26). The period of prehistoric occupation was not determined on four sites, however, a Neo-American occupation was documented for three sites. The remaining sites were historic sites dating to the nineteenth and twentieth centuries. One site, 41FB25, is speculated to be the remains of a sugar mill (Ralph 1978:30).

In 1977, Texas A&M University, in a survey for Tennessee Gas Pipeline Company, recorded site 41FB27, which consisted of a single flake located along the Brazos River (TARL site files). In 1980, Heartfield, Price and Greene recorded three sites (41FB29-31) east of Richmond, and J. D. Hudgins recorded site 41FB28 in southwest Fort Bend County (TARL site files). Bulverde, Perdiz, and Scallorn points were recorded from this latter site. The remaining sites (41FB32-66) have been recorded along the San Bernard River in the southwestern part of the county by an avocational archaeologist, J. Hudgins (TARL site files).

It should be pointed out that at least three surveys have been conducted in the county in which no sites were recorded (McGuff and Cox 1974, Kluge et al. 1979, Ekland-Olson 1980). In each case however, the area covered in the county was not large. Most recently, the U.S. Department of Housing and Urban Development (HUD) conducted an environmental review of the Southern Metropolitan Houston



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Area to determine environmental impacts related to further development (HUD 1983). Including parts of Fort Bend County, the study included a brief overview of the cultural resources of the area. No survey was conducted and no sites were recorded.

3.0 RESULTS OF INVESTIGATIONS

3.1 ARCHIVAL PROCEDURES AND RESULTS

The NRHP, the available records of the Texas Historical Commission (THC), and the TARL site files were reviewed for the identification of previously recorded cultural resources. Also consulted were the Guide to Official Texas Historical Markers, the National Register of Natural Landmarks, and the Texas Catalog of the Historic American Buildings Survey. None of the above data files listed any sites within the project area.

The county sketch map files of the General Land Office in Austin, Texas, which are kept to house data from county surveyors across the State of Texas, were also reviewed. One map, dated 1890, was located which showed the project area and the approximate location of sugar mills and cotton gins within the project area (Fig. 2, fig. pocket).

3.2 PREHISTORIC SURVEY AND RESULTS

Based upon data regarding prehistoric settlement patterns presented in Sec. 2.0 (Shafer et al. 1975; Sorrow and Cox 1978; Ralph 1978), Phase 1 was determined to have two high probability areas for prehistoric site location (Fig. 1). The first area was along Cow Bayou. The second area was along an unnamed intermittent drainage immediately west of Cow Bayou which flows into Cow Bayou. Also, pedestrian survey was conducted over both areas as shown in Fig. 1. In order to locate buried cultural material, a screened shovel test was conducted approximately every 250 ft in both survey areas.

A single Neo-American site was located on the ground surface by visual ground inspection on the west bank of Cow Bayou (Fig. 1). Eleven bone tempered



ceramics were the only artifacts observed. Based upon artifact distribution, site size was estimated to be 20 feet in diameter. Shovel tests revealed no subsurface cultural material, showing that the site maintains no physical or cultural integrity. No other sites were located in the two areas surveyed for prehistoric occupation.

3.3 HISTORIC SURVEY AND RESULTS

As previously presented in Sec. 2.2.3, the history of the project area can be traced back to the original settlement of Texas by the Old Three Hundred in 1824. No historic cultural resources were documented within the Development project area relating to the first colonists, T. Barnet, D. Fitzgerald, or W. Hall. Historic resources were, however, documented within the project area for the historical period dating from the sale of the Fitzgerald League in the 1840s to the present. The earliest resource documented is the location of the J. D. Waters homesite (Fig. 1). The homesite, possibly dating to the 1830s or 1840s, was located from the description provided by Wharton (1939:138) (see Sec. 2.2.3). The site is presently overgrown with dense brush, grass, and trees, making surface observation difficult. No standing structures remain on the homesite, however an intact brick/cement cistern (Fig. 4), brick rubble, and patined glass was observed on the ground surface over about 165 foot diameter area. The cistern was roughly circular and built into the ground. Depth from ground surface to the bottom of the cistern was estimated to be about 10 feet; its width at its widest point in the ground was estimated at about 15 feet. The bottom of the cistern was littered with brick and bottle fragments. Although no diagnostic artifacts were observed, the lack of recent historic material and the homesite description provided by Wharton strongly suggest the cultural resource remains relate to the J. D. Waters plantation home.

Further, strong supportive evidence is supplied by the Waters Cemetery (see Sec. 2.2.3), which, as described by Wharton (1939:139) was located, "... two hundred yards east of the veranda of the mansion ..." The cemetery contains three graves (see Sec. 2.2.3) and is presently overgrown by brush, virtually obscuring the



Figure 4. Waters Homesite Cistern

8-foot shaft of Italian marble that marks the location of Clara Byne, Waters' second wife (Fig. 5). The following words are inscribed on the marker: "To the memory of Clara Byne, Wife of Jonathan D. Waters, born in Burke County, Georgia August 7th A.D. 1829, died in Galveston, Texas May 3rd A.D. 1860, aged 30 years, 8 mo's, 26 d's, amiable, discreet and kind, the beloved center of her family and social circle, a Christian, cheerful, consistent and zealous in the cause of her Redeemer. She died as she had lived, trusting in God and her once crucified but now risen and ascended Saviour. Blessed are the dead which die in the Lord." A small headstone marks the grave of Waters' first wife, who died in 1848. No headstone was located for his brother, Phileman. Cemetery size was estimated at about 20 feet by 20 feet.

As previously stated in Sec. 2.2.3, Waters was known to have built a sugar mill and brickyard about 1849. Although no structures remain, the location of the brickyard (Fig. 1) was pointed out by Rufus Gonzales, Sienna Plantation's caretaker. At least one kiln was said to have operated in the manufacturing of bricks, mostly for plantation use. The area is now covered by dense woods and brush, however, handmade brick fragments were observed on the ground surface over a 150-foot diameter area.

At least two existing structures within the Development are thought to relate to the Waters era (Fig. 6). Both are thought to be associated with the sugar mill erected by Waters in 1849. The mill was eventually acquired by T. W. House, who operated the mill until about 1929 (see Sec. 2.2.3). Figure 2 documents the mill as it was mapped by a surveyor in 1890.

The largest of the two structures is a two-story rectangular brick building (Figs. 7, 8). The structure is intact, but has apparently been modified from what appears to be a two-story, T-shaped structure, shown in Fig. 2. The structure is presently used to store hay. The exterior dimensions of the structure measure about 100 feet east-west, by about 40 feet north-south. Both floors are single, cavernous,

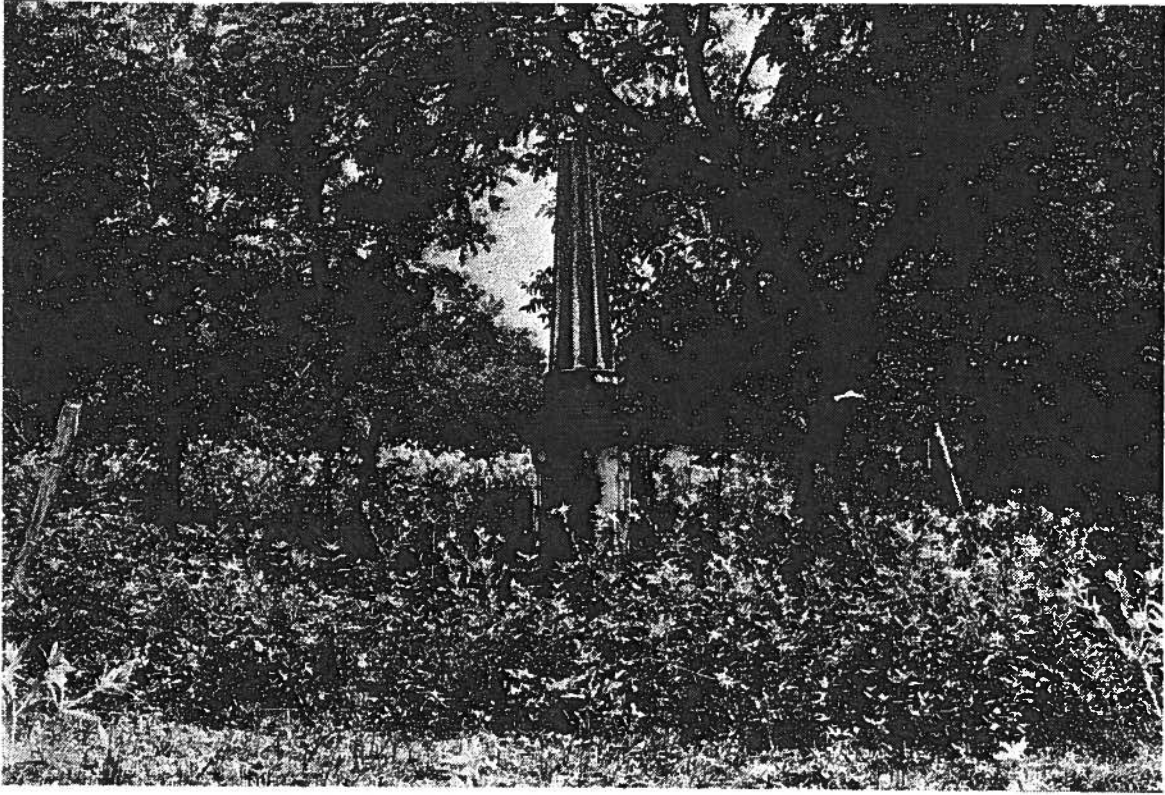


Figure 5. Grave Marker, Waters Cemetery



Figure 7. Sugar House, View to North



Figure 8. Sugar House, View to Southwest

areas which are not subdivided into smaller rooms. The structure has a gable roof covered by corrugated metal sheeting. The walls are constructed of handmade brick identical to the brick fragments scattered over the alleged brickyard, suggesting that the brickyard may have been built, at least in part, to construct the sugar mill facilities. Wall thickness was noted to be about one foot thick, all of which was constructed of brick. Windows in the structure are arched in a semi-elliptical pattern. Rafters observed on the second story appeared to be hand hewn and were notched and pegged, as opposed to nailed construction. A brick cistern was also observed about 20 feet south of the center of the structure. The size and depth of the cistern could not be determined because the cistern was filled with bricks. The function of the building as it related to the milling operation is not documented. However, due to the large operation needed to crush cane, it is considered likely that the building at least housed the rollers for crushing the cane and possibly stored the refined sugar.

The second structure thought to be related to the sugar mill operation is the foundation on which the juice of the sugar cane was cooked (Fig. 9). Located about 50 feet northeast of the probable rolling mill and storage house, the fired brick structure is intact. The foundation is roughly square in shape, measures about 25 feet on a side, and stands about eight feet high. Due to the grass and weed cover growing both around the sides of the foundation and over the foundation itself, a plan of the furnace(s) and flues was not attempted. At least two flues were observed running the length of the foundation east-west, with additional flues offset north-south from the main flues (Fig. 10).

At least seven historic structures were documented within the Development which are thought to be originally associated with the House Plantation era, from 1872 to about 1929. Based upon construction techniques, five structures are thought to date to no earlier than the turn of the century.



Figure 9. Sugar House Cooker Foundation, View to Southeast

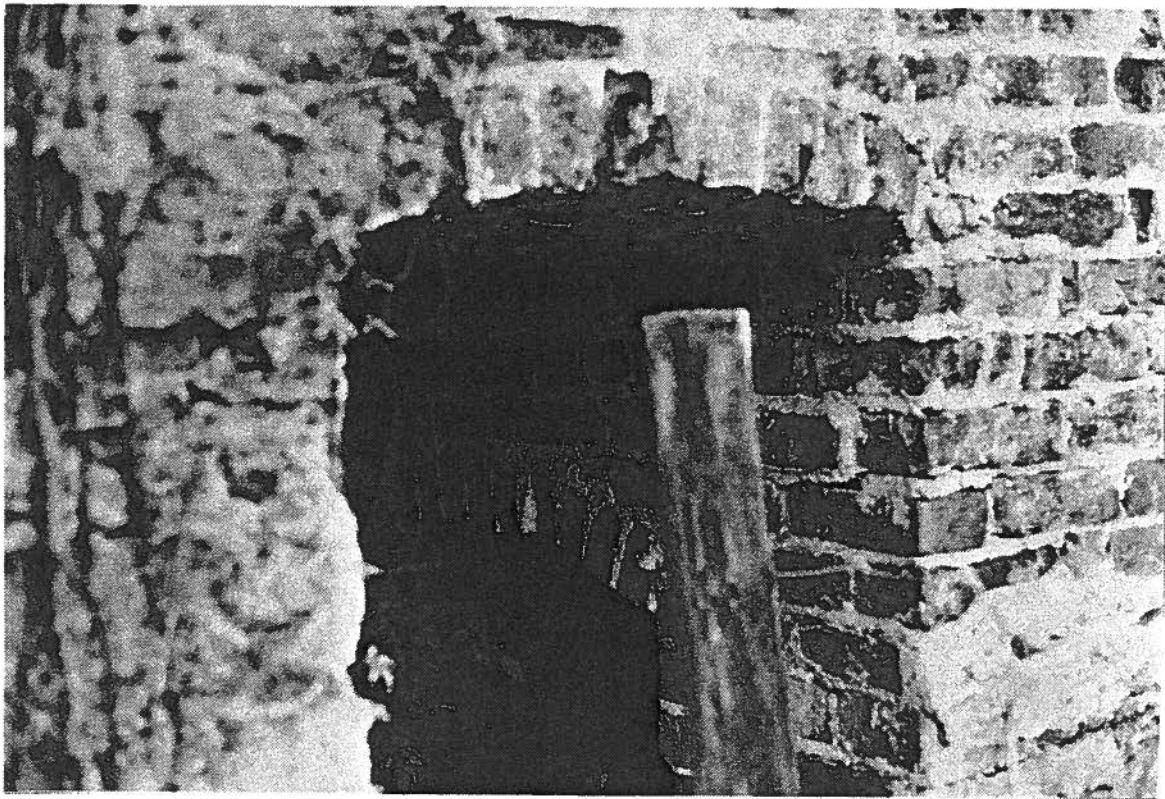


Fig. 10. Cooker Foundation Flues

The first of these House Plantation structures served as a general store during the second and third decades of the present century, and probably earlier (Gonzales 1984) (Figs. 6, 11). The store served a general population of plantation workers which was partially housed along the main east-west plantation road, which runs in front of the Sienna Plantation main house, and along Oyster Bayou (Gonzales 1984). The structure was destroyed by winds from Hurricane Alicia in 1983. An analysis of the debris revealed the exterior walls to be vertical board and batten siding. The structure had a hip roof with sheet metal roofing. Nails observed in the debris were both wire-finish nails and machine-cut (square) flooring and finish nails.

The second structure thought to relate to the turn of the century House Plantation era is the alleged blacksmith shop (Figs. 6, 12). The structure is intact and was known to be functioning at the same time as the general store (Gonzales 1984). According to Elmer Wendt of Sienna Plantation, the structure at one time housed the steam generating equipment for the sugar mill operation (Wendt 1984). The structure is now used to store and repair machinery. The structure is divided into three separate bays, each about 23 feet wide and 60 feet long. The exterior walls are vertical board and batten. The structure has a hip roof covered with corrugated metal roofing. Nails observed in the construction of the building were machine-cut wire nails, suggesting the structure may have been built after the general store was constructed.

The third House Plantation structure is the R. Gonzales house (Figs. 6, 13). According to Mr. Gonzales, he (Gonzales) moved into the already existing structure in about 1921, and lived there for several years. The structure has been altered on the west side by cutting away much of the exterior wall and replacing it with large swinging doors (Fig. 14). The structure is presently used for storage. Vertical board and batten siding covers the exterior walls. The one-story structure has box cornice eaves with a hip roof covered with cedar shingles. Windows in the structure are six over six and two over two double-hung sash with plain trim. Nails observed in the structure were a combination of wire common nails and machine-cut common nails.

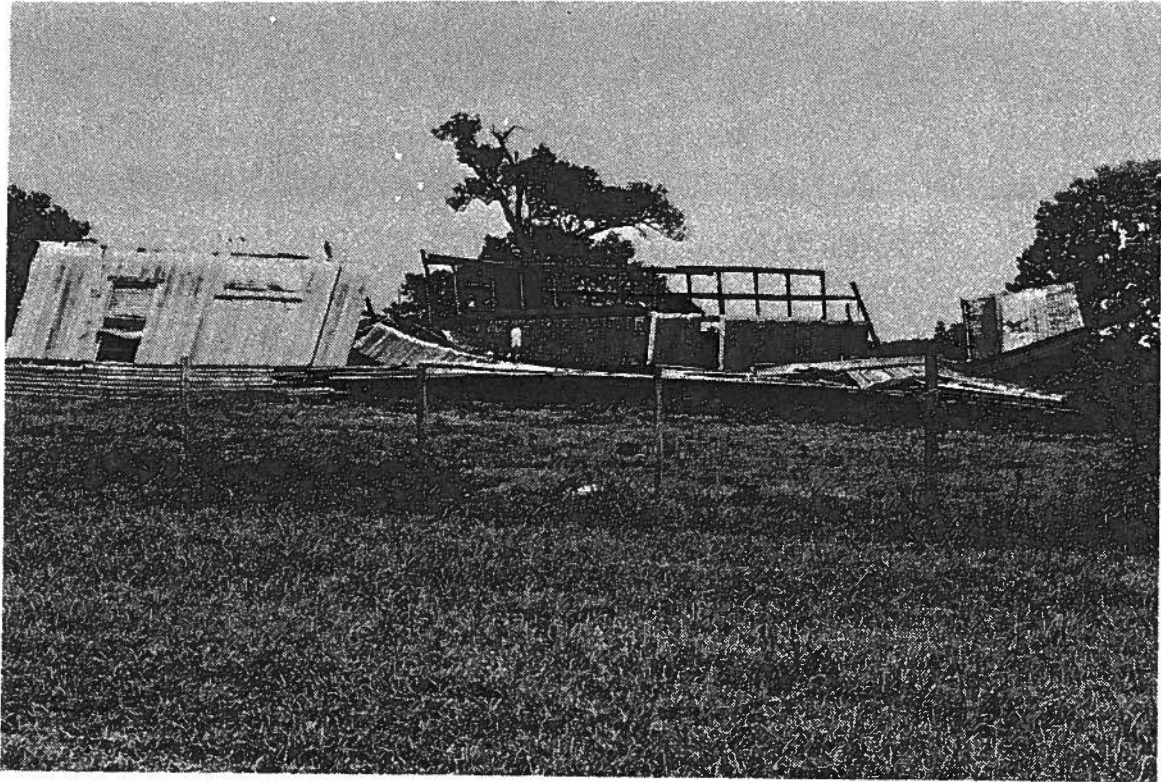


Figure 11. General Store, View to East

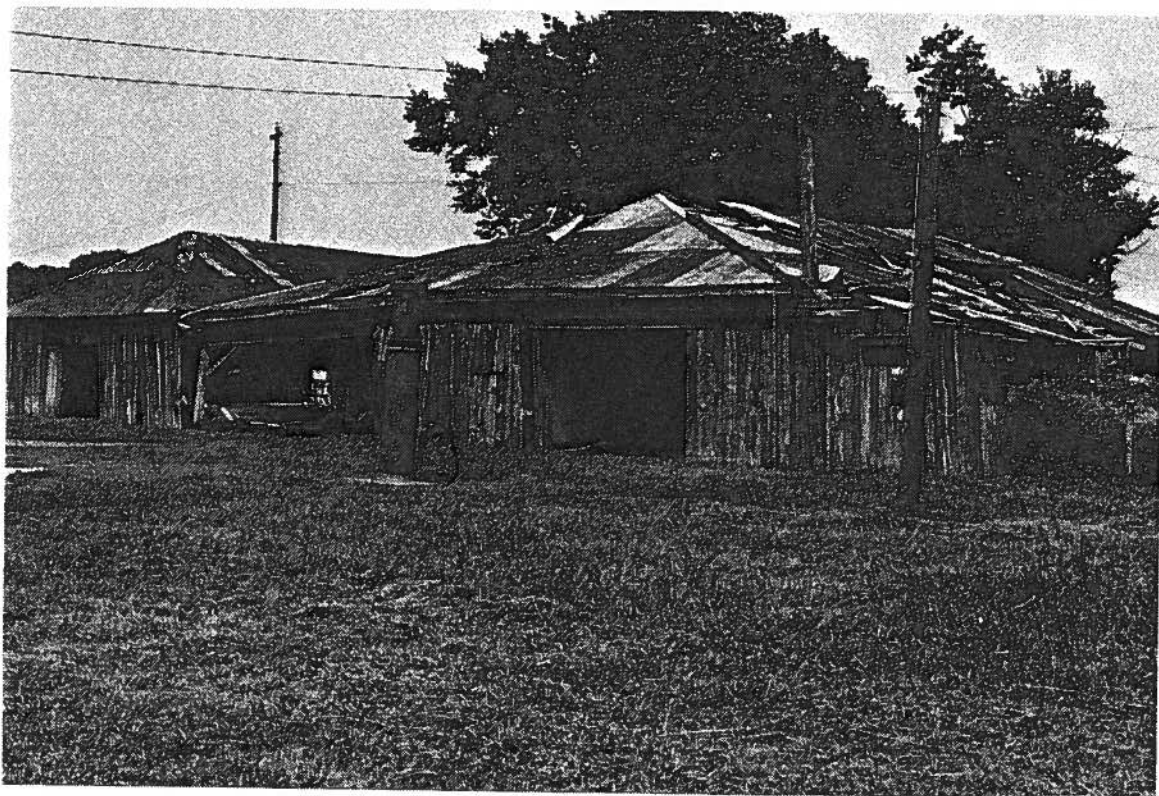


Figure 12. Blacksmith Shop, View to Northeast



Figure 13. Gonzales House, View to Northwest

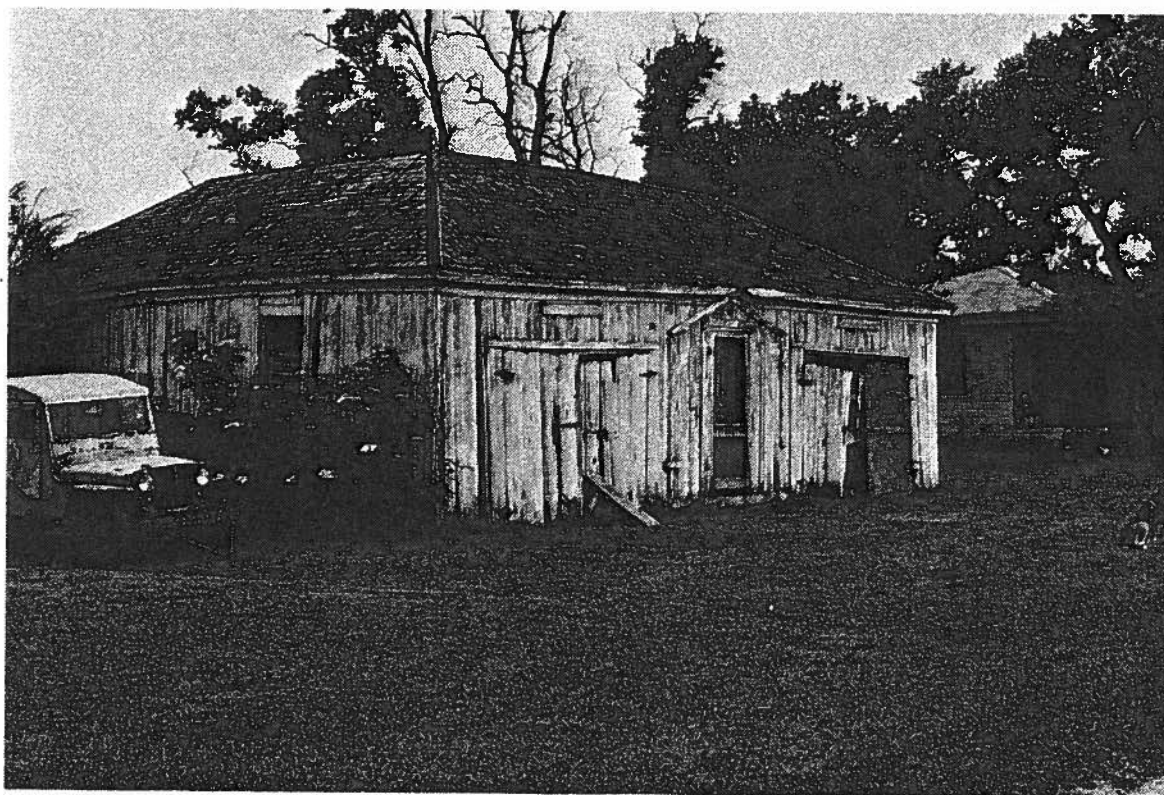


Figure 14. Gonzales House, View to Southeast

The fourth and fifth structures thought to relate to the turn of the century House Plantation are Tenant Houses A and B (Fig. 6, 15, 16). Tenant House B is an L-shaped structure raised about 12 inches above ground on oak and concrete piers, except where a concrete berm has been used for support. Exterior walls are vertical board and batten, with four over four double-sash windows with plain trim. The house has a gabled roof with box cornice eaves. The roof was covered with corrugated metal. Wire nails were noted within the structure.

Tenant House A is a single-story house raised on brick piers. The house has a gabled roof with asbestos shingles. Exterior walls are vertical board and batten attached with wire nails. Windows are six over six double-hung sash with plain trim.

The two structures thought to relate to the pre-turn of the century House Plantation era are the abandoned Sacred Heart Church, and the former parsonage/schoolhouse (Fig. 6). The church structure (Fig. 17) is intact and is raised above ground about 12 inches on either rock or oak piers. The single-story structure has a gabled roof covered with cedar shingles. Windows are two over two double-sash with plain trim. Nails observed in an exposed area of the exterior weatherboard were heavily rusted, but appeared to be machine cut. The intense weathering of these nails, as opposed to the less intense weathering of all other structures alleged to relate to the House Plantation, circa 1900, suggests that the church may pre-date the twentieth century, possibly dating to the 1890s.

The structure immediately north of the church was indicated to be the former church parsonage (Gonzales, 1984). The structure is identical in construction techniques and is raised above ground about 12 inches on six weathered oak piers and four brick piers which have replaced the wooden piers. The structure is also identically weathered, further suggesting that the church and parsonage were built at the same time. The parsonage was modified to house school children at least as early as the 1920s (Gonzales 1984; Wendt 1984).

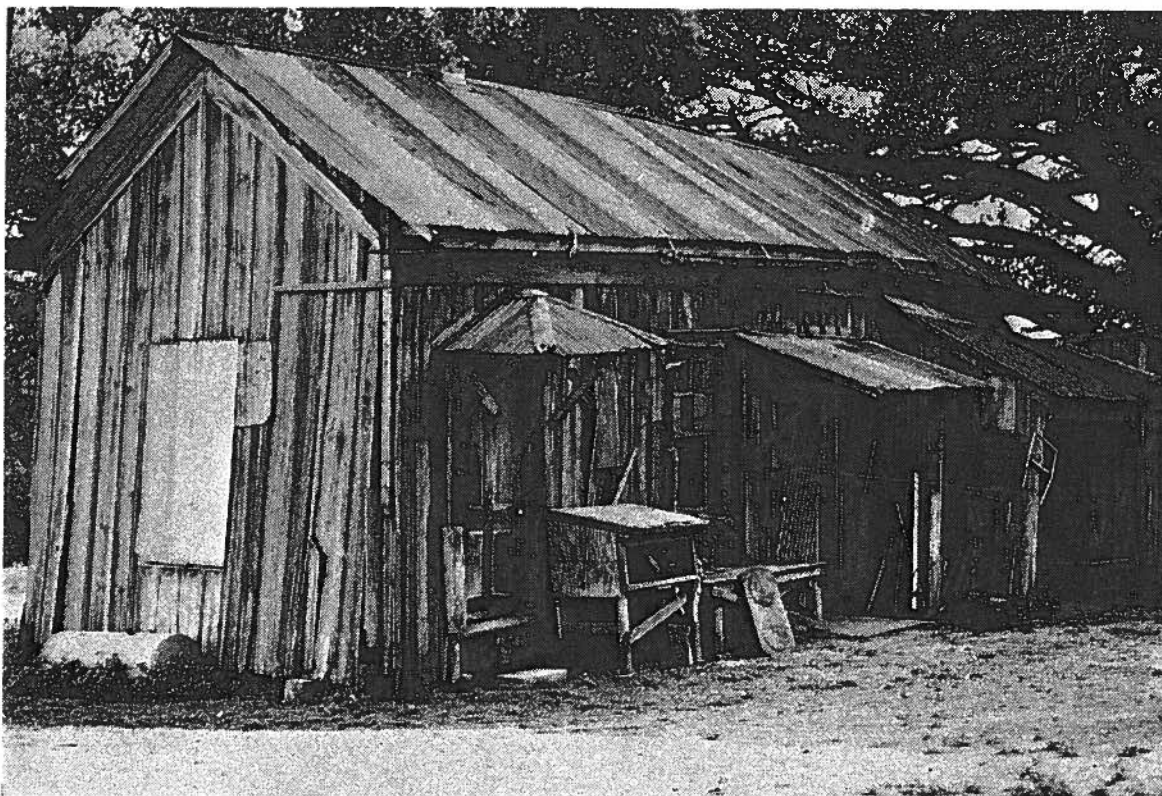


Figure 15. Tenant House B, View to Northeast

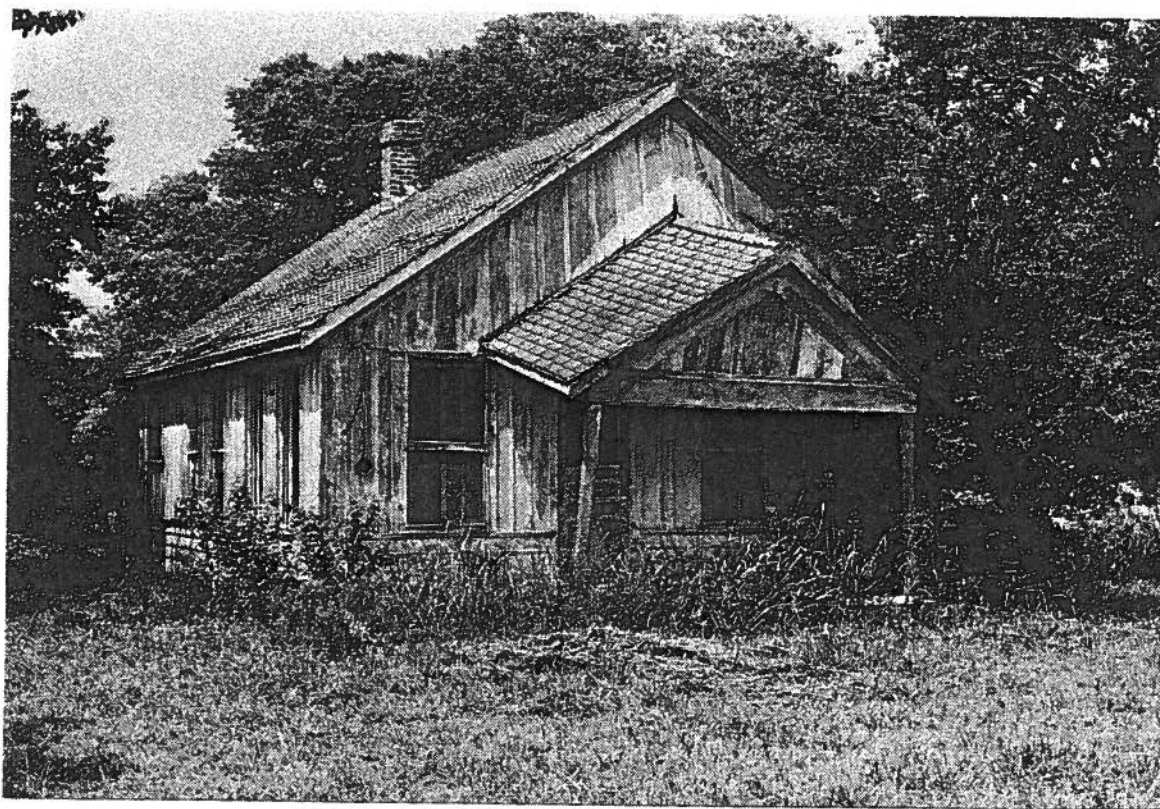


Figure 16. Tenant House A, View to North

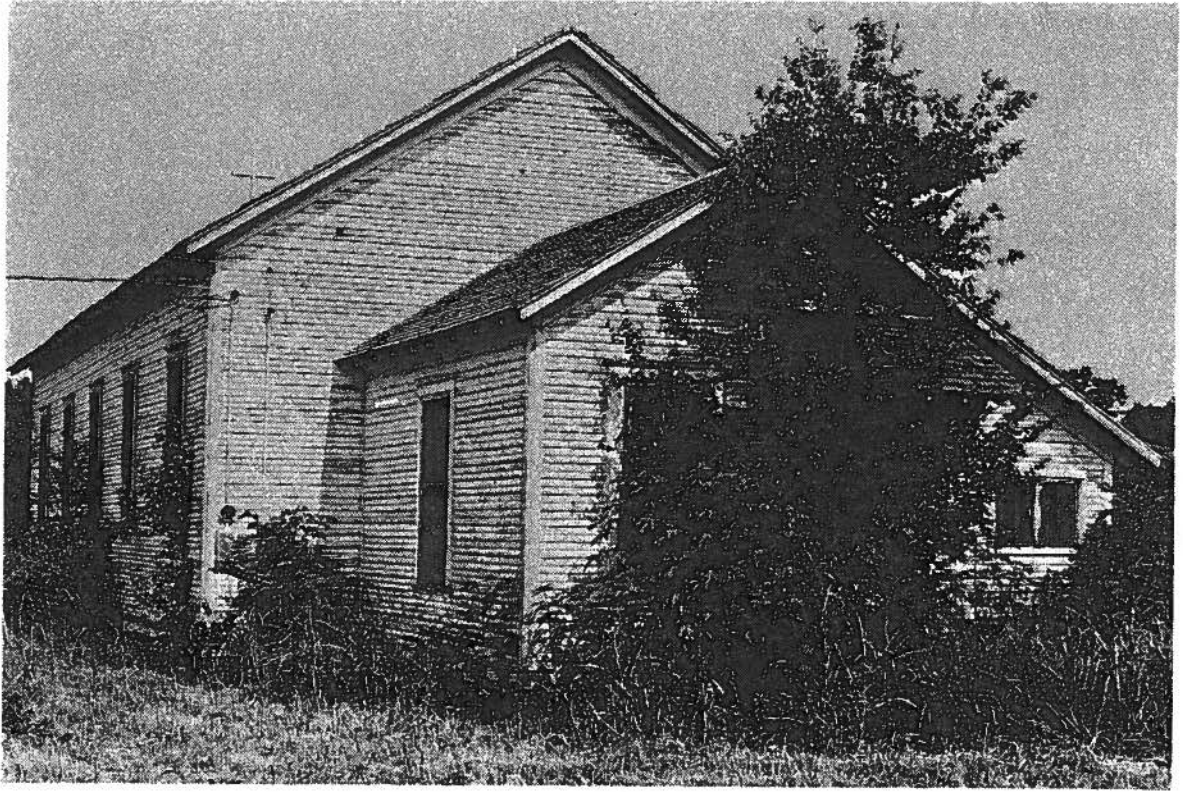


Figure 17. Sacred Heart Church, View to East



The remaining standing structures within the Development post-date the House era, with the notable exception of the main house of Sienna Plantation. The year in which the main house was built was not documented; however, the T. H. Scanlan family was known to be living in it during the 1920s in Houston, before it was moved to its present location (Price 1984). The Scanlan family built a cannery building in the 1930s (Wendt 1984) (Figs. 6, 18). The structure is built on a concrete slab with exterior brick walls. The remaining structures shown in Fig. 6 within the project area are middle twentieth century houses or sheds.

The existing structures located within the Development are not the only remaining historical artifacts documenting the history of the project area. The locations of former structures or features have been documented through either archival research, such as, for example, the previously discussed Waters homesite, or through oral history, such as the former brickyard. Figure 2 shows the location of two former structures dating to 1890; a single-story "new" sugarhouse, located along Oyster Creek northwest of the sugarhouse built in 1849, and a cotton gin, located in the Waters brickyard area. Figure 1 documents both locations. A brief walk-over of both areas did not reveal evidence for either structure. Shovel testing was not conducted.

The location of two former structures and three features, obtained from a surveyors map (Waite 1917), are documented on Fig. 1. The first structure was a "Negro Church", located north of the Atchison Topeka and Santa Fe Railroad (ATSF). A walk-over of the area thought to be the location of the church revealed no cultural materials. Shovel tests were not conducted. A second structure, possibly a depot, located at the intersection of the ATSF and the Missouri Pacific (MoPac), is labeled "Sugarland Junction". No remains of the structure were observed in the area.

Two of the features mapped by Waite, both railroad grades, are still prominent today. Both tracks belonged to the former Sugar Land Railroad

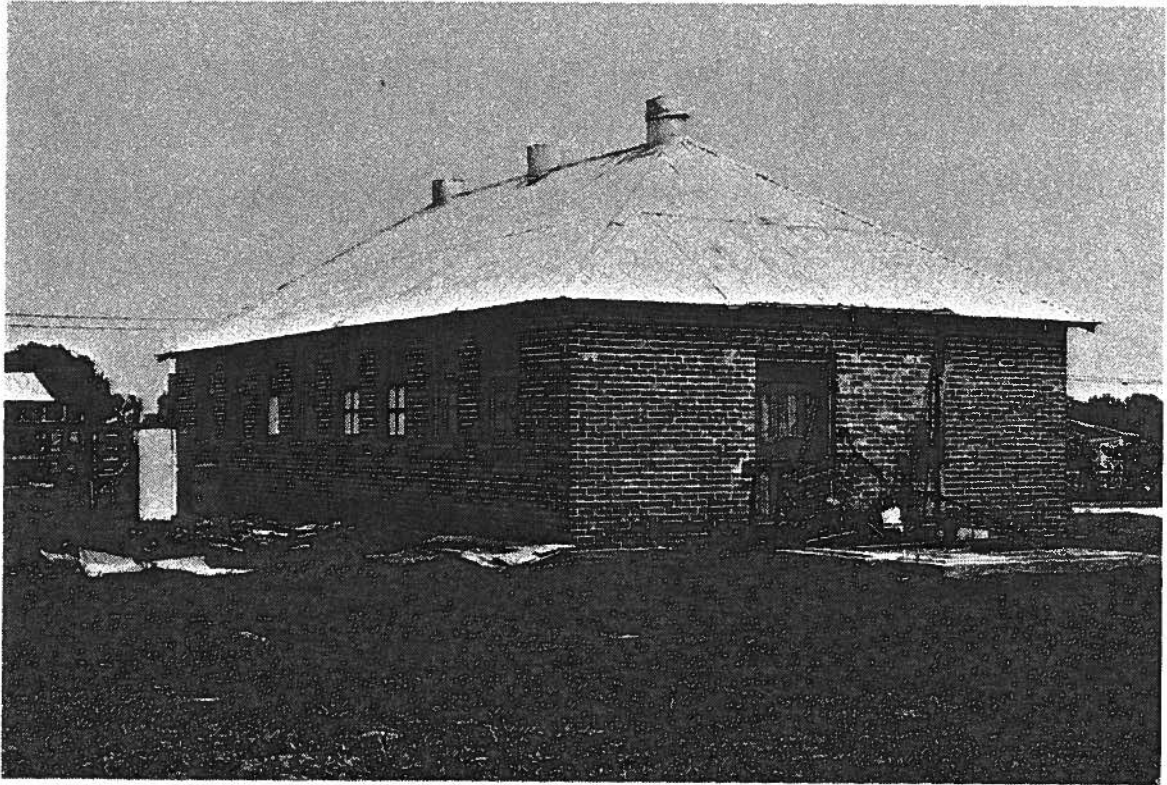


Figure 18. Cannery, View to Northwest

Company, chartered in 1893 (Reed 1945:343-344). Part of the old north-south railroad grade is still in use by MoPac, which absorbed the Sugar Land Railroad in 1925 (Reed 1945:343). ATSF also uses a portion of the east-west grade. The third feature mapped by Waitt was an "Old Abandoned Dump" located north of the now partially abandoned east-west Sugar Land railroad grade. No attempt was made to locate this feature in the field.

The location of two former depots, dating to the 1920s, was documented by Rufus Gonzales (Fig. 6). The railroad stops were known as the whistle stops for the T. W. House Plantation. Structural evidence for both structures was not located.

The last feature documented by EH&A is a cemetery, located west of the Sienna Plantation main house (Fig. 6). The cemetery is estimated to cover an area about 200 feet in diameter and possibly contains as many as 100 graves of black and Hispanic people (Wendt 1984; Lewis, 1984). The area is marked by only three grave markers. One is a flat concrete marker with no inscription. The second is a vertical cut marble headstone overgrown by brush (Fig. 19). The inscription reads:

Robert
Prince
1861 1921
at rest.

The third headstone (Fig. 20) is flush with the ground, and reads:

Lizzie Woods
Daughter of
Mary and Sam Williams
Born at Arcola
August 22, 1886
Died at Houston
February 10, 1921

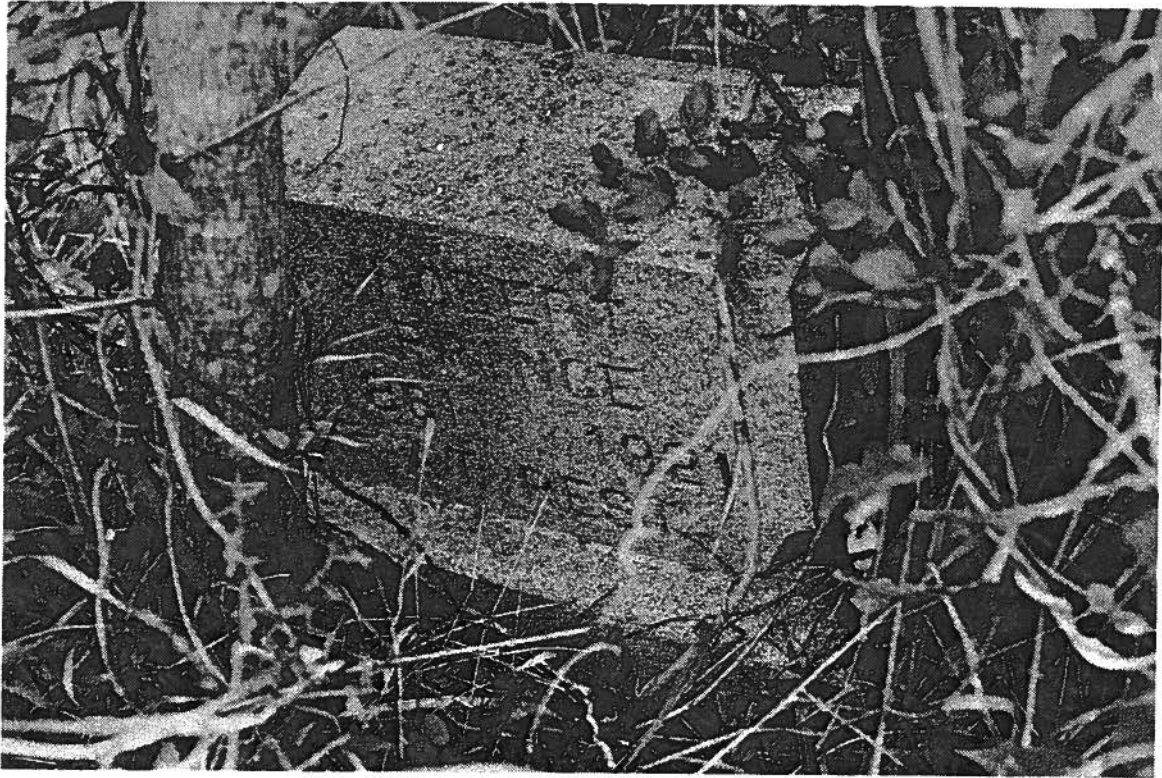


Figure 19. Prince Headstone



Figure 20. Woods Headstone



Numerous rectangular depressions, suggesting additional burials, were noted over the hill on which the headstones are located. According to Mr. Wendt, the cemetery was abandoned in the 1920s; however, earlier interments are thought to go back to the late nineteenth century (Wendt 1984).

3.4 SUMMARY OF RESEARCH

Cultural materials dating to the prehistoric Neo-American Indian population, and historic materials dating from the present time to possibly the second quarter of the nineteenth century, have been documented within the project area. Based upon previous research discussed in Sec. 2.3, and the discovery of a prehistoric site, the prehistoric site potential in the project area is considered to be high along the banklines and terraces overlooking the Brazos River, Oyster Creek, and Cow Bayou. Relic meander scars of Oyster Creek, such as Thompson Lake, Lawson Lake, and Sawmill Lake, are also considered highly likely to contain prehistoric sites. Lastly, the unnamed intermittent stream banks and terraces located between Cow Bayou and Oyster Creek, and west of Cow Bayou, are also likely to have been favored locations for prehistoric settlement.

Historically, cultural resources or features have been documented within the Development for the Waters, House, Scanlan, and present eras. It is readily apparent from these resources that they reflect a rich cultural heritage within the Development. It is equally important to recognize, however, that, in the opinion of the Project Archaeologist, not all the identified historic resources are historically significant. Evaluation of significance was made for each of the historic cultural resources identified in accordance with the guidelines established for determining eligibility of a cultural resource for nomination to the NRHP (see Sec. 1.0). The existing general store, blacksmith shop, Gonzales House, Sacred Heart Church, parsonage/school, Tenant Houses A and B, and cannery do not fulfill any one of the four established guidelines. Briefly, in the opinion of the Project Archaeologist, they are not architecturally unique, nor are they related to a significant historical event.



The main house of Sienna Plantation itself does not meet these guidelines. In addition, because the house was moved from its original location, all physical integrity of the homesite, an important component in determining significance, was lost. Regarding cemeteries, they rarely are determined eligible for the NRHP, simply because few people achieve sufficient national prominence for the cemetery in which they are buried to be nominated after their death. As a result, neither the Waters cemetery nor the cemetery located west of the Sienna Plantation house (pending further research) is thought to be historically significant.

In the opinion of the Project Archaeologist, the Waters/House sugarhouse and cooker foundation are historically significant because they are likely to yield information pertinent to the understanding of early sugar plantation life and industry (see point 4, Sec. 1.0). The Waters family was among the first families (after the Old Three Hundred) to settle in southeast Texas. The intact sugar mill facilities on the Development represent a last remnant of a now-lost cane industry lifestyle which dominated the "sugar bowl" of Texas in the middle- to late-nineteenth century. As previously seen, the Waters/House sugar mill was one of only 35 mills in Texas in 1859. Today, virtually none of these mills exist intact, most having been destroyed by hurricanes or dismantled. The single possible exception to this is the Chenango Sugar Mill near Angleton, Texas. Recorded in 1936 by the Historic American Buildings Survey, the mill was recorded as an intact brick, 50 ft by 120 ft, one and two stories, wood-trussed gabled roof (HABS 1974:43). The structure was part of a plantation dating to the 1830s. It is not known if the structure remains intact today.

3.5 OTHER SUGAR MILLS

Archival research uncovered only six other sites in which sugar mills were officially recorded on the coastal plain. Few have been investigated thoroughly. The first is the Hawkinsville steam-powered mill site on Caney Creek in Matagorda County (Fritz 1975). Operational in the 1850s, the mill has been



destroyed by removal of its structural materials. The second site is the Ellerslie Plantation (41BO80) in Brazoria County. The plantation site, added to the NRHP in 1979, contains the remains of a ruined sugar mill dating to the 1850s. A third mill has been archaeologically recognized on the Sutherland Plantation in Jackson County after testing exposed the ruins of a sugar evaporator (cooker) dating to the 1840s (Freeman and Fawcett 1980). Probably the best known site which is known to have a sugar mill is the Varner-Hogg Plantation State Historical Park (41BO133) in Brazoria County. Test excavations of the ruined mill found that cane was crushed at one end of an enclosure, and cooking done at another end of the same enclosure (Crouch 1982). The Varner-Hogg home is marked by a State of Texas Historical Marker. In Fort Bend County, the Sugar Land Refinery at Sugarland, Texas has been marked by a Texas State Historical Marker. Nominated to the NRHP in 1976 by the Texas Historic Engineering Site Inventory, Texas Tech University, the refinery has yet to be placed on the NRHP. Lastly, also in Fort Bend County, a ruined syrup mill in Booth, Texas has been marked by a Texas Historical Marker.

3.6 RECOMMENDATIONS

Based upon the research conducted by EH&A, five general recommendations are in order:

1. additional survey;
2. testing of the historic Waters Plantation homesite, if the site cannot be avoided by all primary and secondary development impacts;
3. field location of the historic "Negro" church and the "new" T. W. House sugarhouse;
4. archival research of historic cemeteries; and
5. development of an historic preservation plan for the existing Waters/House sugar mill structures.



As previously stated, the distribution of prehistoric sites in the project area is expected to be along waterways. Historic sites, as shown by the Waters homesite and the cluster of structures in the sugar mill area, are also likely to be found in the same areas. Because numerous cultural resources are expected to be found within the project area, pedestrian survey is recommended within a corridor 1,500 feet wide extending from the east bank of the Brazos River, and both banks of Oyster Creek, Cow Bayou, and its tributaries (except for that area previously surveyed in Phase 1). All intermittent streams between Cow Bayou and Oyster Creek, and the relic meander lakes of Thompson Lake, Sawmill Lake, and Lawson Lake are also recommended for survey as stipulated above. Within all survey areas, 100 percent survey coverage is recommended.

If the Waters homesite cannot be avoided by the Development, archaeological testing of the site is recommended to determine if the site is eligible for nomination to the NRHP. Testing is recommended because it will enable researchers to verify the age of the site (estimated to be the middle- to early-nineteenth century), to determine site size and, perhaps most importantly, to determine the cultural integrity of the site. An assessment of these critical factors cannot be made from current data.

EH&A recommends that pedestrian survey be conducted in those areas where early maps show the "Negro" Church and the "new" House sugarhouse (Fig. 1). The latter is important because of its probable direct association with the original Waters/House sugar mill operation. Its location needs to be ground-verified and, if possible, its period of construction identified. The location of the church is important, principally to determine if a cemetery, usually seen with a church, is present. In the case of the church, both sides of the railroad tracks should be thoroughly investigated.

Regarding the fourth recommendation, the federal government defines a cemetery as "any area of land where human bodies are interred" (30 CFR 761.5). In effect, this includes both marked and unmarked places of interment. Texas law shows that a cemetery cannot be disturbed unless its dedication for that purpose is removed by the District Court of the County in which the cemetery is located (Vernon's Annotated Revised Civil Statutes of the State of Texas, Title 26,



Article 912a-10 and 912a-11). After land has been dedicated as a cemetery, the property owner holds title to some extent in trust, and any subsequent owner must accept that trust. Anyone who intentionally desecrates a place of burial commits a Class A misdemeanor offense (Vernon's Texas Codes Annotated; Penal Code Sections 36.01 to End, Paragraph 42.09). Enclosure of land for use as a cemetery and actual interment are typically the two steps that constitute dedication of land as a cemetery. A summary of Texas laws which deal with cemeteries follows:

1. Section 42.09 of the Texas Penal Code makes it a criminal offense for a person to deface, damage, or otherwise physically mistreat a place of burial in a way that will seriously offend one or more persons likely to observe or discover it.
2. Section 42.10 of the Texas Penal Code makes it a criminal offense for a person to disinter, disturb, or remove a human corpse unless the person is authorized by law to do so.
3. Article 912a-21 of the Texas Civil Statutes provides that the remains of a deceased person cannot be removed from a cemetery except upon the written order of the health department or of the County Court.
4. Article 912a-22 of the Texas Civil Statutes provides that the remains of a deceased person interred in a plot in a cemetery may be removed therefrom with the consent of the cemetery association and the written consent of the surviving wife or husband, or if there is no surviving husband or wife, then the written consent of various other relatives. If the consent of the cemetery association and the required relatives cannot be obtained, permission by the county court of the county where the cemetery is situated shall be sufficient. Notice of request for such a court order must be given to the cemetery association, if there is one, and also to the persons not consenting to the removal.



5. Article 912a-25 of the Texas Civil Statutes provides that whenever any old cemetery for which a perpetual care and endowment fund has not been regularly and legally established is so neglected as to be offensive to the inhabitants of the section surrounding it, it may be abated as a nuisance through the courts.
6. Article 2351f of the Texas Civil Statutes provides that the County Commissioners may create a perpetual trust fund to provide for maintenance and upkeep of neglected and unkept public and private cemeteries in the county. The County Judge serves as Trustee for such a perpetual trust fund. However, this statute provides that the county itself cannot contribute to such a perpetual care fund and cannot use county funds or equipment to maintain the cemetery.

In light of the above laws, EH&A recommends that additional research be conducted to determine if the Waters cemetery, and the large cemetery containing the Prince burial, have been formally dedicated and registered with proper county officials, and to determine if a perpetual care fund has been set up for these cemeteries, or if one should be established for these cemeteries. This research should also apply as an aid in determining if a cemetery were dedicated with the "Negro" church previously discussed. All cemeteries located should be carefully field checked and documented by historical research, including interviews with surviving relatives (if any), to record cemetery size, all burials and burial data, and all associated artifacts, such as fences or headstones.

Lastly, because the Waters/House sugarhouse and cooker foundation is considered to meet the criteria of eligibility to the NRHP, EH&A recommends that an historic preservation plan be developed for rehabilitation of the structures. Development of such a plan would greatly enhance the extremely limited surviving data of the early sugar industry, and ensure that still surviving structures related to



the sugar processing industry of the middle- and late-nineteenth century would not be lost to history. The plan should be developed along three lines:

1. archival research, photo documentation, and architectural documentation, supplemented by archaeological testing and mapping to determine site size, activity areas, and subsurface features of the site;
2. based upon data obtained from (1) above, submission of the structures for nomination to the NRHP; and
3. determination of prospective commercial uses of the structures.

Various tax incentives are available for the commercial rehabilitation of historic structures. Generally, these incentives are not available for non-commercial uses, such as residential. "Rehabilitation" is defined as the process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural, and cultural values (36 CFR 67). The standards for rehabilitation are as follows:

1. Every reasonable effort shall be made to provide a compatible use for a property which requires minimal alteration of the building, structure, or site and its environment, or to use a property for its originally intended purposes.
2. The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
3. All buildings, structures, and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.



4. Changes which may have taken place in the course of time are evidence of the history and development of a building, structure, or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.
5. Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, or site shall be treated with sensitivity.
6. Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
7. The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.
8. Every reasonable effort shall be made to protect and preserve archeological resources affected by, or adjacent to any project.
9. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural, or cultural material, and such design is compatible with the size, scale, color, material, and character of the property, neighborhood, or environment.
10. Wherever possible, new additions or alterations to structures shall be done in such a manner that if such additions or alterations were



to be removed in the future, the essential form and integrity of the structure would be unimpaired (U.S. Department of the Interior 1983).

Recognition that the rehabilitation of historic structures is an important sector of our national economy prompted the approval of the Economic Recovery Tax Act. As a result, an attractive tax treatment is available for historic structures. In summary, expenditures made to a commercial "qualified rehabilitated building" 30-39 years old and 40 years or older, can qualify for a 10 percent and a 15 percent rehabilitation investment tax credit (ITC), respectively. To be a "qualified rehabilitated building", a structure must retain 75% of its existing exterior walls and be income-producing. The rehabilitation costs must exceed \$5,000 or the adjusted basis of the building, whichever is greater. Also, expenditures made to a certified historic structure (CHS) used for commercial purposes can qualify for a 25 percent ITC, and a 100 percent depreciation. In the case of a CHS only, the rehabilitation work must be reviewed by the Texas Historical Commission and approved by the National Park Service Regional Office. A CHS is a building listed in the NRHP. To be certified rehabilitation, all work must conform to the Secretary of the Interior's Standards for Rehabilitation, 1979, outlined above.



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