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Jeffrey Mozdziok, Esquire
Deputy Attorney General
Office of Attorney General
1600 Arch Street, Suite 300
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██████████ and ██████████
(T-875); Ordinance No. 7-31-2026-003

[REDACTED]

Our office represents East Union Township (the “Township” or “EUT”). This letter responds to the Office of Attorney General’s (the “Office”) August 25, 2026 correspondence concerning the ACRE request submitted by [REDACTED] and [REDACTED]. EUT respectfully disputes that the five-ton restriction on Phineyville Road is necessarily an unauthorized local ordinance merely because agricultural equipment may exceed that weight. The restriction corresponds to a professional engineering recommendation based on observed roadway deterioration. Its application must also respect the local traffic exemption and permitting procedures established by Pennsylvania law.

The enclosed May 5, 2026 Engineering and Traffic Study supplies the substantive basis for EUT's position. The Township requests that the Office distinguish challenges to that engineering basis from questions about documentation, signage, or the treatment of a particular agricultural trip. EUT does not seek an interpretation that prohibits otherwise exempt farm access, nor does it contend that a professional recommendation excuses compliance with applicable posting requirements.

I. The ordinance and the contemporaneous engineering record

The challenged July 2026 amendment adds a five-ton gross-weight restriction, from beginning to end, for Cemetery Road (T-854), West Pine Street (T-855), West Market Street (T-857), Brandon Street (T-865), Oak Street (T-868), Phineyville Road (T-875), and Cranberry Alley. It amends Chapter 13, § 205, which expressly invokes 75 Pa.C.S. § 4902(a). It does not regulate crop selection, farming methods, farm ownership, or the agricultural use of land. See Ordinance No. 7-31-2026-003 and Chapter 13, § 205, included with the request for review.

Benesch's report predates the amendment. It is dated May 5, 2026, bears Project No. 0326-609017.02, and is signed by Dominic J. Yannuzzi, P.E., Senior Project Manager. It identifies all seven newly restricted roads, including Phineyville Road, and states that the evaluation covered their full lengths.

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The report identifies the pavement structure, shoulders, geometry, stopping sight distance, and surface maintenance conditions as subjects of the field evaluation. Benesch Study at 1.

The report describes common conditions across the evaluated roads: distressed pavement structure, limited apparent pavement thickness, narrow or absent shoulders, and deficient stopping sight distance. Its grouped observations also identify wheel-path rutting, loss of crown and drainage function, erosion, potholes, longitudinal and transverse cracking, alligator cracking, and edge deterioration. Benesch Study at 2. The Township relies on the observations as the report states them; it does not represent that every listed defect occurs at every point on every road.

Benesch concludes that the pavement structures cannot adequately accommodate even intermittent heavy truck traffic and that continued heavy loading will accelerate deterioration and failure. It expressly recommends a five-ton restriction for the full extent of the subject roads. Benesch Study at 2-3. Figure 1 identifies Phineyville Road within the study area. Thus, the record contains an actual field evaluation and a specific recommendation addressing the road and threshold challenged in the complaint, rather than merely a generalized preference to discourage heavy vehicles.

II. ACRE preserves the Township's express road-protection authority

Under 3 Pa.C.S. §§ 312 and 313, a restriction of a normal agricultural operation is unauthorized when the municipality lacks the requisite state-law authority or is prohibited or preempted from adopting the restriction. Section 313(c) preserves existing municipal legislative and regulatory authority. Agricultural impact alone therefore does not establish illegality. See 3 Pa.C.S. §§ 312-313.

The Commonwealth Court has treated whether an ordinance limits a normal agricultural operation as a mixed question of fact and law. See *Commonwealth v. Locust Township*, 49 A.3d 502 (Pa. Cmwlth. 2012) (en banc), part II.E. For purposes of this response, EUT assumes the working agricultural activities described in the complaint are normal agricultural operations. That assumption does not resolve whether the particular roadway restriction is authorized or whether particular trips are exempt. EUT also does not contend that the Office must await a citation before reviewing the ordinance. See *Id.* at n. 1.

Section 4902(a)(1) expressly authorizes municipal weight restrictions supported by an engineering and traffic study demonstrating potential damage to a highway. Section 6109(a)(7) separately recognizes road-protection and traffic-safety powers. See 75 Pa.C.S. § 4902(a)(1); 75 Pa.C.S. § 6109(a)(7). EUT relies on the road-condition authority invoked in § 205. It does not claim unrestricted power to lower statewide vehicle limits: § 4901(b) requires express authority, and § 4901(d) places responsibility for proper administration on the municipality. 75 Pa.C.S. § 4901(b), (d).

The amendment regulates vehicle weight on seven identified roads; it contains no farm-specific classification. That breadth does not alone establish validity, but it is consistent with the multi-road engineering evaluation. The sequence identified in the complaint—a study followed by an ordinance matching its recommendation—does not, without more, establish an effort to suppress agriculture. The

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relevant inquiry remains whether the restriction has a lawful engineering basis and is administered consistently with governing law.

III. The study supplies substantive support; documentation questions warrant focused review

Engineering judgment is an authorized method

An engineering and traffic study is an orderly examination or analysis of physical features and traffic conditions undertaken to determine the need for a restriction. 67 Pa. Code § 212.1. For highway-condition weight restrictions, § 212.117(b) permits evaluation through structural analysis, testing, engineering judgment, or a combination. Inadequate or deteriorated pavement or shoulders susceptible to serious damage can warrant a restriction. 67 Pa. Code § 212.117(b).

Accordingly, the complaint's assertion that the report lacks pavement cores, traffic counts, measured geometry, or sight-distance calculations does not by itself demonstrate a failure to perform the required substantive evaluation. The regulation expressly permits engineering judgment. Section 212.4 also recognizes sound engineering judgment based on the available data and cautions that a warrant is not a substitute for that judgment. 67 Pa. Code § 212.4(b), (d). EUT does not represent that the report contains measurements or calculations that it does not contain.

Here, the report connects observed physical distress and inadequate structural capacity to the expected effects of continued loading, and then recommends a defined limit. The common-condition findings expressly extend to the evaluated roads, which include Phineyville Road. Consolidating the results in one report does not mean that Phineyville Road was omitted from the evaluation. Its inclusion, the end-to-end review, and the full-extent recommendation distinguish this record from an ordinance supported by no study at all. Benesch Study at 1-3.

The report also discusses geometry and stopping sight distance. Those observations provide context, but EUT's response rests on the structural and deterioration findings supporting § 4902(a). EUT does not ask the Office to treat safety observations as a substitute for those findings or to reclassify the ordinance under § 4902(b) in order to avoid the governing local traffic rules.

Five tons and the full-road restriction

Publication 221 expressly contemplates limits in five-ton increments, including five tons. It also advises consideration of seasonal posting where a permanent restriction is unnecessary. PennDOT Publication 221, June 2018, p. 6. Neither a five-ton threshold nor a restriction without a seasonal expiration is categorically forbidden.

Benesch did not simply recommend some unspecified reduction: it selected five tons and the full extents of the roads after describing widespread deficiencies. Its findings concern existing structural and drainage conditions and are not confined in the report to a temporary thaw event. Those features support EUT's position that the amendment corresponds to the professional evaluation. Benesch Study at 2-3.

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If the Office considers additional explanation necessary concerning the selected threshold, a particular segment, or seasonality, EUT requests an opportunity to obtain that explanation from Benesch. A focused engineering inquiry is preferable to assuming either that every qualitative evaluation is insufficient or that an engineer's conclusion is immune from review. The Township does not contend that the farm-access exemption can cure an otherwise unsupported general posting.

IV. The local traffic exemption protects qualifying agricultural access

Equipment classification and the nature of the trip

Farm equipment is not categorically outside the Vehicle Code. Self-propelled agricultural machinery generally falls within the motor-vehicle definition; towed implements may be vehicles in a combination. More directly, § 205 covers vehicles and combinations. Registration exemptions for qualifying implements of husbandry do not themselves establish immunity from posted road limits. See 75 Pa.C.S. § 102; 75 Pa.C.S. § 1302.

The relevant protection is the local traffic exemption. Section 189.2(4) includes vehicles and combinations going to or from a farm on a posted highway, or accessible only by a posted highway. Section 189.3(a) permits such overweight local traffic unless the posting authority determines that the relevant vehicles are likely to damage the road. These regulations apply to municipal highways. 67 Pa. Code §§ 189.1-189.3.

On the facts alleged, qualifying trips to or from the agricultural property at 129 Phineyville Road—including farm machinery, supply deliveries, and agricultural pickups—may use the exemption. Movement between farm areas on opposite sides of the road should likewise be evaluated as local farm access, rather than rejected merely because the machinery exceeds five tons. The exemption is based on the trip and destination, not solely on the operator's occupation or a vehicle's designation.

A machine merely using Phineyville Road as a through route is not exempt solely because it is farm equipment. Conversely, qualifying local status is not defeated simply by requiring the operator to choose the shortest stretch of a posted road. In *Commonwealth v. Reaser*, 851 A.2d 144 (Pa. Super. 2004), the court rejected that additional limitation where the pickup destination could not reasonably be accessed without using the posted road. The actual access routes must be examined before resolving such a question.

The present response addresses ordinary agricultural access described in the complaint. Traffic serving logging or other natural-resource extraction sites can be subject to different limitations, even on farmland. No determination concerning such traffic should be inferred without the relevant facts. See 75 Pa.C.S. § 4902(a)(5).

A supported damage determination is distinct from the general posting

The exemption is not unconditional. Under § 189.3(b), likely damaging vehicles may be required to proceed under permit after notice to the vehicle registrants, destination owners, or both, and to State

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and local police. The regulation allows two business days following delivery, or five days following mailing, before the permit requirement applies. Actual damage need not occur first 67 Pa. Code § 189.3(a)-(b).

Nevertheless, the Benesch report's general road-condition findings are not, standing alone, a notice withdrawing local traffic status from every farmer. EUT does not assert that every tractor, trailer, or agricultural load necessarily causes the same damage as the truck traffic discussed in the report. A determination concerning particular traffic should address the relevant loaded weights, vehicle configuration, frequency, route, and road conditions. Neither a vehicle's agricultural use nor its weight above the posting alone resolves that separate inquiry. EUT has not made any § 189.3 determination or given notice of enforcement.

Qualifying local traffic does not initially require an overweight permit or bond merely to receive its exemption. When permitting lawfully applies, § 189.4 provides for excess-maintenance responsibility, security, and inspection. Excess maintenance excludes ordinary maintenance and betterment. 67 Pa. Code § 189.4(a), (c)-(f); 67 Pa. Code § 189.2. Section 4902(c)(1) also prohibits refusal of a highway permit under subsection (a) when no reasonable alternate route is available, subject to the applicable permitting requirements. 75 Pa.C.S. § 4902(c)(1).

V. The ordinance must be read and administered consistently with these protections

The July amendment changes the weight schedule; it does not expressly repeal the state local traffic rules. EUT's position is that § 205 must operate subject to those rules. Sections 4902(f) and (f.1) require regulatory compliance and prohibit inconsistent municipal provisions. 75 Pa.C.S. § 4902(f), (f.1). Silence in the local text is not a source of authority to deny an exemption granted by controlling law.

The Office's June 8, 2018 North Coventry Township review illustrates the distinction. At pages 12-13, the Office accepted the facial consistency of a ten-ton ordinance incorporating local traffic and damage-based security provisions, but objected to implementation that failed to recognize exempt farm access. It also criticized signage that deterred an equipment delivery and emphasized consistent treatment of comparable traffic. The Office acknowledged authority to require excess-maintenance protection for likely damaging agricultural traffic. That letter is an administrative position, not a binding judicial decision, but it provides a useful framework. See OAG North Coventry Township review, June 8, 2018, pp. 12-13.

EUT's proposed resolution respects both parts of that framework: preserve a properly supported road restriction and make the local traffic protection effective in practice. The Township does not ask the Office to presume that existing signs, communications, or enforcement actions have all complied merely because the engineering study recommends appropriate signage. Any specific incident in which a qualifying trip was denied, deterred, cited, or subjected to an improper bond demand should be identified and evaluated on its facts. To date, the Township has not installed any deterrent signage or taken any enforcement action.

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The Township recognizes the posting requirements in § 4902(e) and the effectiveness provisions in § 6109(c). A substantive engineering basis does not excuse noncompliant signs. See 75 Pa.C.S. § 4902(e); 75 Pa.C.S. § 6109(c). At the same time, an implementation issue should not be treated as proof that municipalities lack authority to protect a deteriorated road serving farms.

VI. Requested disposition and proposed further response

For these reasons, EUT requests that the Office decline the complaint's demand for outright invalidation based simply on the five-ton threshold, its nonseasonal character, or its impact on vehicles used in agriculture. The signed report supplies substantial factual support for the Township's road-protection position, and the governing regulations allow the engineering-judgment methodology used.

If the Office believes a particular statutory or regulatory requirement remains unsatisfied, please identify that requirement and the additional information sought so that EUT and its engineer may respond before a litigation decision. We welcome a conference addressing those issues. The Township's position is that lawful road protection and protected agricultural access can be accommodated within the existing state framework; the record does not support treating them as mutually exclusive.

Very truly yours,

[REDACTED]

[REDACTED]

Enclosures:

May 5, 2026 Benesch Engineering and Traffic Study, Project No 0326-609017.02 with photos.

CC:

[REDACTED]

Township of East Union
secretary@eastuniontownship.com

Robert A. Willig
Senior Deputy Attorney General

[REDACTED]



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P 570-914-9030

May 5, 2026

East Union Township Supervisors
10 East Elm Street
Shepton, PA 18248

**Subject: East Union Township, Schuylkill County
Engineering and Traffic Study - Various Roadway Weight Limit Posting
Project No. 0326-609017.02**

Dear Supervisors:

As requested, we have conducted an Engineering and Traffic Study on various roadways within the East Union Township limits. The purpose of the study is to determine safe weight limits for the roadways. The study was conducted in accordance with engineering principles and practices outlined in PennDOT Publications 46, 212 and 221.

Our study involved viewing the roadways listed below:

Roadways (beginning to end)

Cemetery Road (T-854)
West Pine Street (T-855)
West Market Street (T-857)
Brandon Street (T-865)
Oak Street (T-868)
Phineyville Road (T-875)
Cranberry Alley

Roads Posted in 2024 (To remain posted)

Girard Manor Road
Pole Road
Pumping Station Road
Old Mill Road
Green Mountain Road
Trailer Road
Dombroski Lane
Foosse Lane

Observations

The study consisted of a full-length field evaluation of the subject roadways, from end to end. Observations focused on key roadway elements including pavement structural condition, shoulder width and condition, roadway geometry (curvature), available stopping sight distance, and general surface maintenance conditions.

Stopping sight distance is a critical safety parameter, as it provides drivers sufficient distance to perceive and react to obstacles, obstructions, or other vehicles. This requirement becomes increasingly important for larger and heavier vehicles, which require significantly greater stopping distances and impose substantially higher loads on pavement systems. As a result, heavy vehicles

have a disproportionately large impact on roadway performance. In pavement engineering practice, truck traffic is a primary controlling factor in both structural design and long-term maintenance planning, as a single heavy truck can impart pavement damage equivalent to thousands of passenger vehicles. Consequently, sustained or intermittent heavy truck traffic accelerates pavement deterioration and contributes to premature defects such as rutting, cracking, and loss of structural integrity. For this reason, the implementation of vehicle weight restrictions is a widely recognized strategy for preserving pavement life and reducing long-term maintenance demands.

Across all roadways evaluated, common conditions were observed, including a distressed pavement structure, limited apparent pavement thickness, narrow or absent shoulders, and substandard stopping sight distance. These conditions collectively contribute to reduced roadway performance and increased safety risk.

The following specific deficiencies were observed in the field:

- Rutting within wheel paths, contributing to accelerated surface material displacement and erosion
- Reduced sight distance and narrow roadway sections in multiple locations, creating operational and safety concerns
- Loss of roadway crown, resulting in impaired drainage and surface water management
- Erosion within wheel paths, producing significant elevation differences across travel lanes
- Lateral surface erosion associated with low areas and degraded cross slope conditions
- Development of potholes and surface voids both within and outside wheel paths
- Widespread longitudinal, transverse, and alligator (map) cracking throughout asphalt surfaces
- Accumulation of loose aggregate and debris along roadway edges and shoulders
- Dust generation issues on unpaved or gravel sections of roadway

Conclusion

Based on field observations, the subject roadways exhibit widespread structural and surface deficiencies, including inadequate pavement thickness, loss of crown, rutting, cracking, erosion, and deficient shoulders. Geometric limitations such as restricted roadway width, tight curvature, and inadequate stopping sight distance further compound these issues and introduce elevated safety risks for the traveling public. Collectively, these conditions indicate that the roadways are functioning beyond their intended design capacity.

The existing pavement structures are not adequate to accommodate even intermittent heavy truck traffic. Given the well-established relationship between axle loading and pavement damage, the



presence of heavy vehicles will continue to accelerate deterioration at a disproportionate rate, leading to rapid failure mechanisms such as rutting, base instability, and progressive surface degradation. Without intervention, continued heavy loading will shorten the remaining service life of these roadways, increase the frequency and cost of maintenance activities, and heighten the likelihood of unsafe driving conditions.

In addition to structural concerns, the identified deficiencies—particularly reduced sight distance, narrow travel lanes, and lack of shoulders—limit the ability of drivers to safely react to oncoming traffic, obstacles, and changing roadway conditions. These constraints are further exacerbated when large vehicles are present, due to their longer stopping distances, wider turning radii, and reduced maneuverability. As a result, the combination of substandard geometry and heavy vehicle usage presents a clear and ongoing risk to public safety.

To mitigate further deterioration, improve safety conditions, and manage long-term maintenance costs, it is recommended that a vehicle weight restriction of 5 tons be implemented on these roadways for their full extents. This restriction is consistent with preserving roadway infrastructure that was not designed for heavy loading and serves as a proactive measure to extend pavement life. Implementation should include the installation of appropriate regulatory signage in accordance with applicable PennDOT standards and guidelines, including Publications 46, 111, 212, 221, and 236.

Attached is a map showing the location of each roadway within the Township investigated as part of the study and existing photos of each roadway.

Thank you for your time and consideration in this matter. Should you have any questions or comments regarding the above or enclosures, please feel free to contact our office at your convenience.

Very truly yours,

A handwritten signature in blue ink that reads "Dominic J. Yannuzzi".

Dominic J. Yannuzzi, P.E.
Senior Project Manager

cc. Atty. Donald Karpowich, Solicitor

East Union Township – Existing Representative Roadway Condition Photos

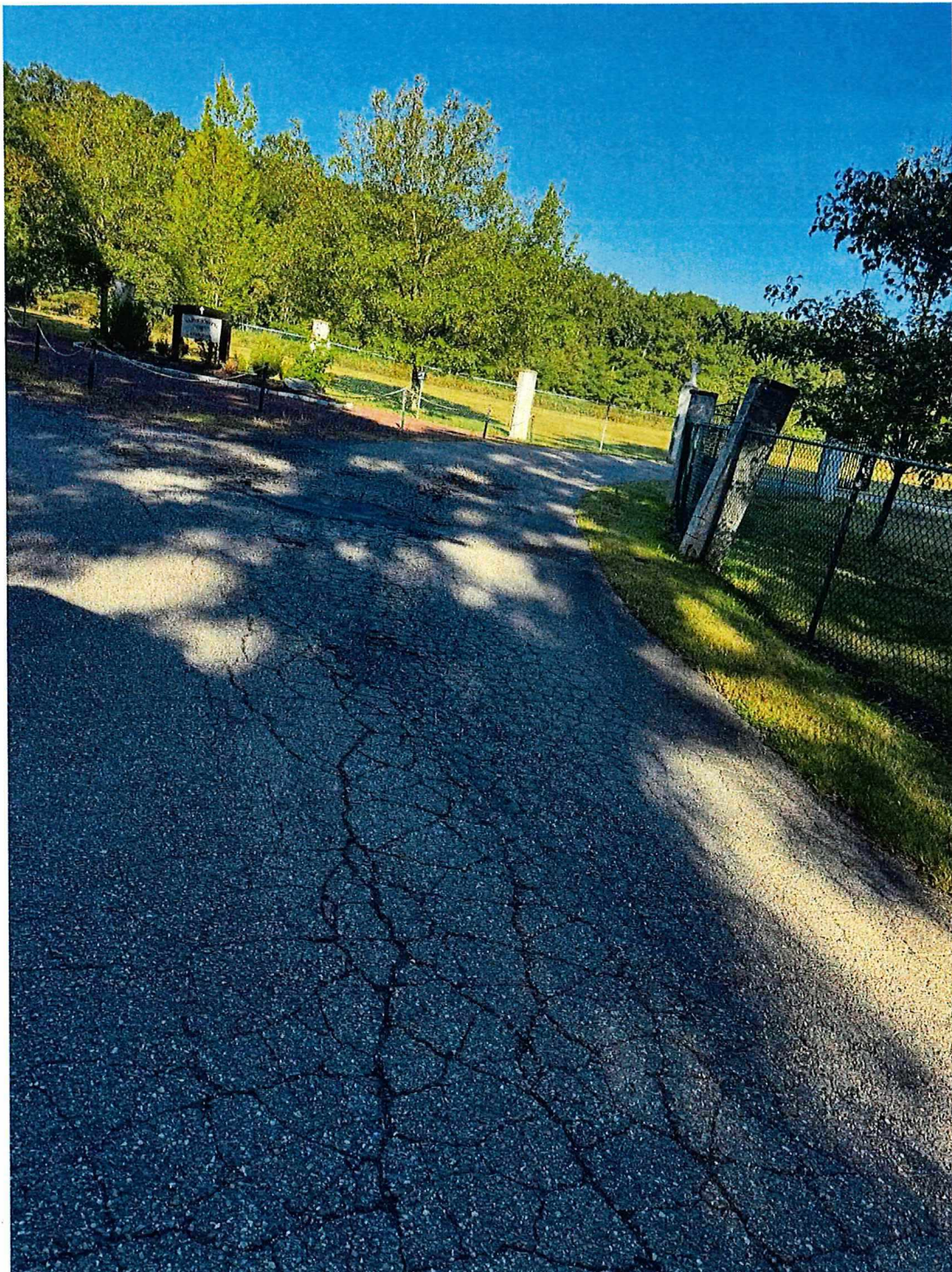


Photo 1 – Cemetery Road (T-854)

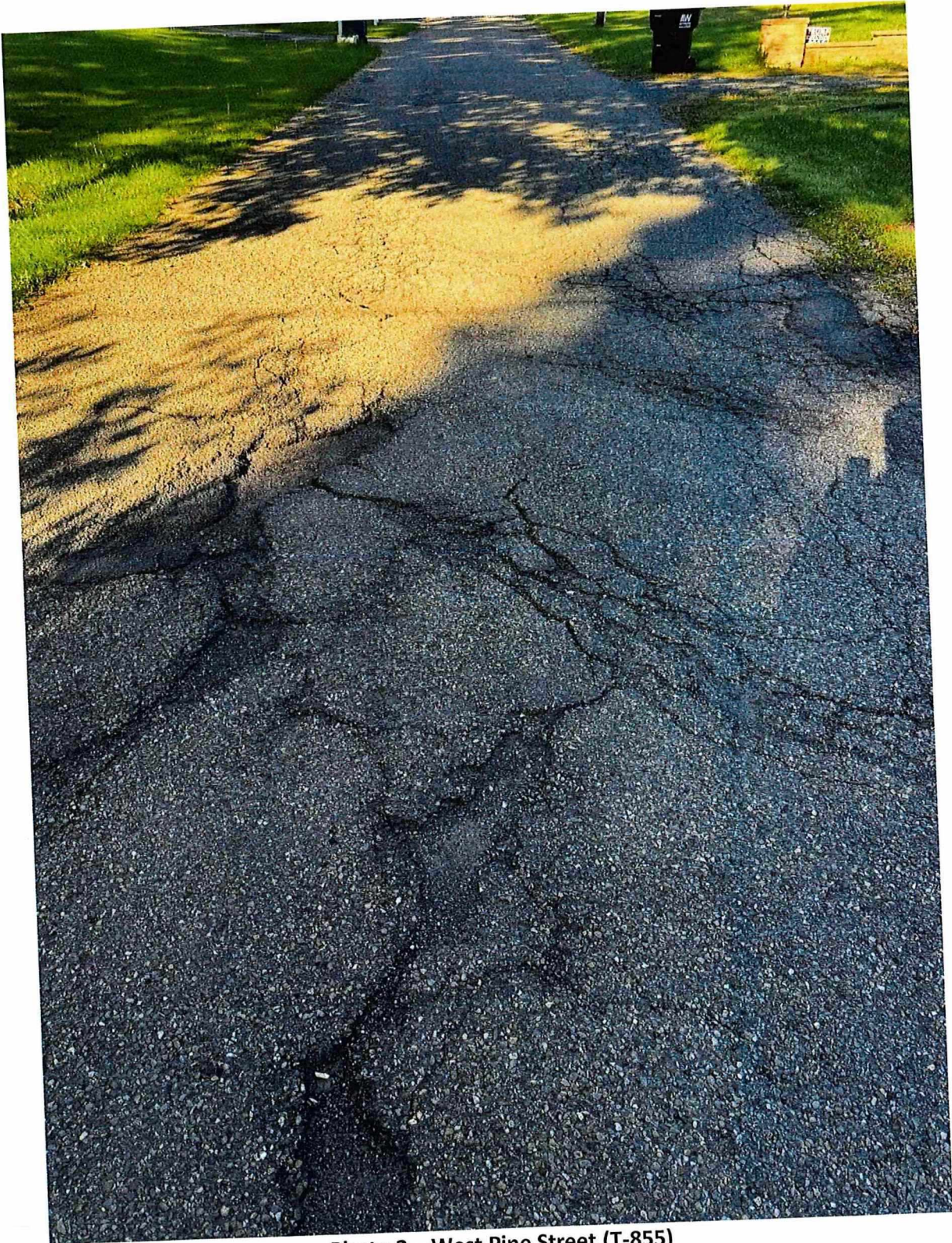


Photo 2 – West Pine Street (T-855)



Photo 3 – West Market Street (T-857)

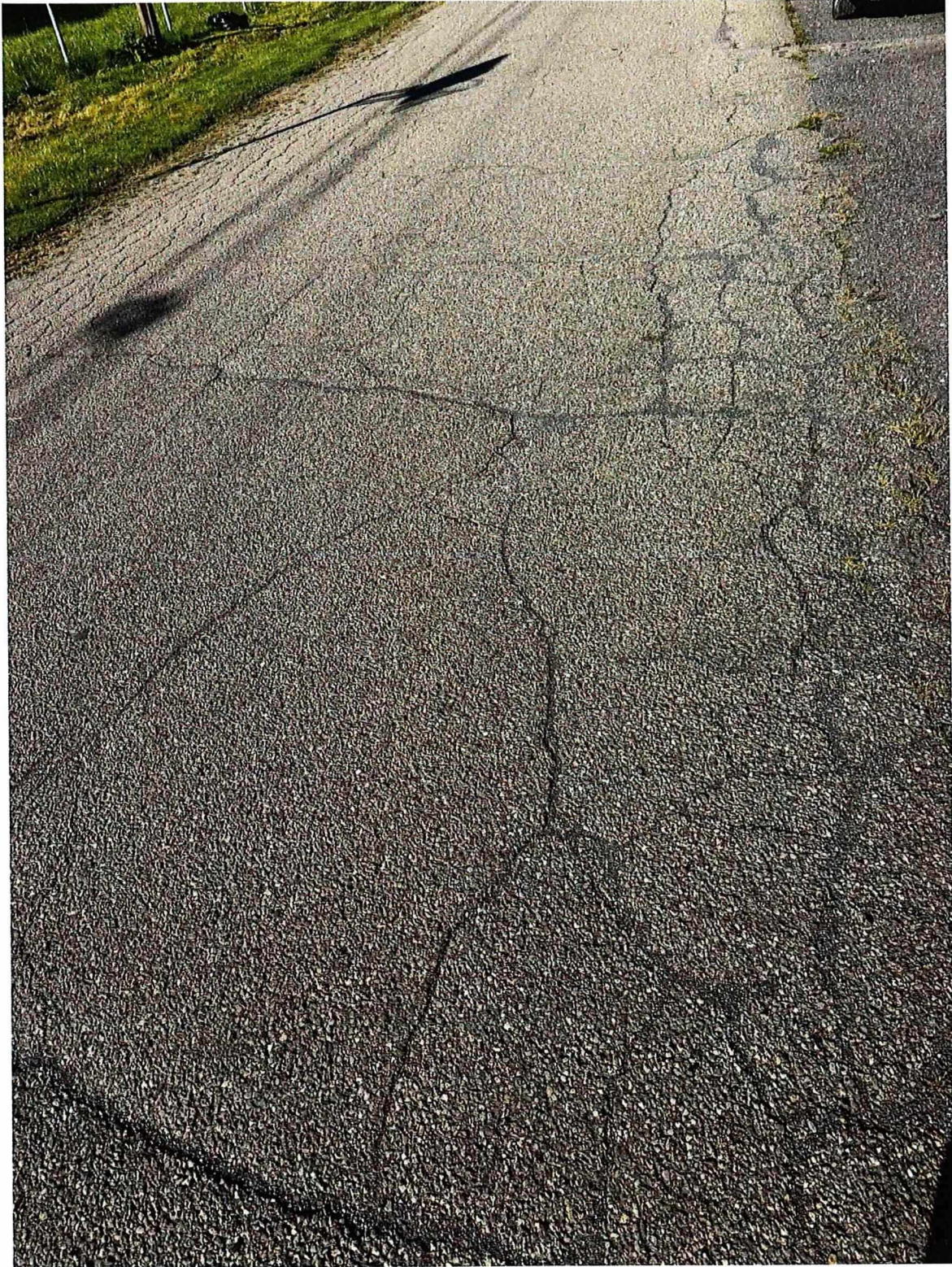


Photo 4 – Brandon Street (T-865)

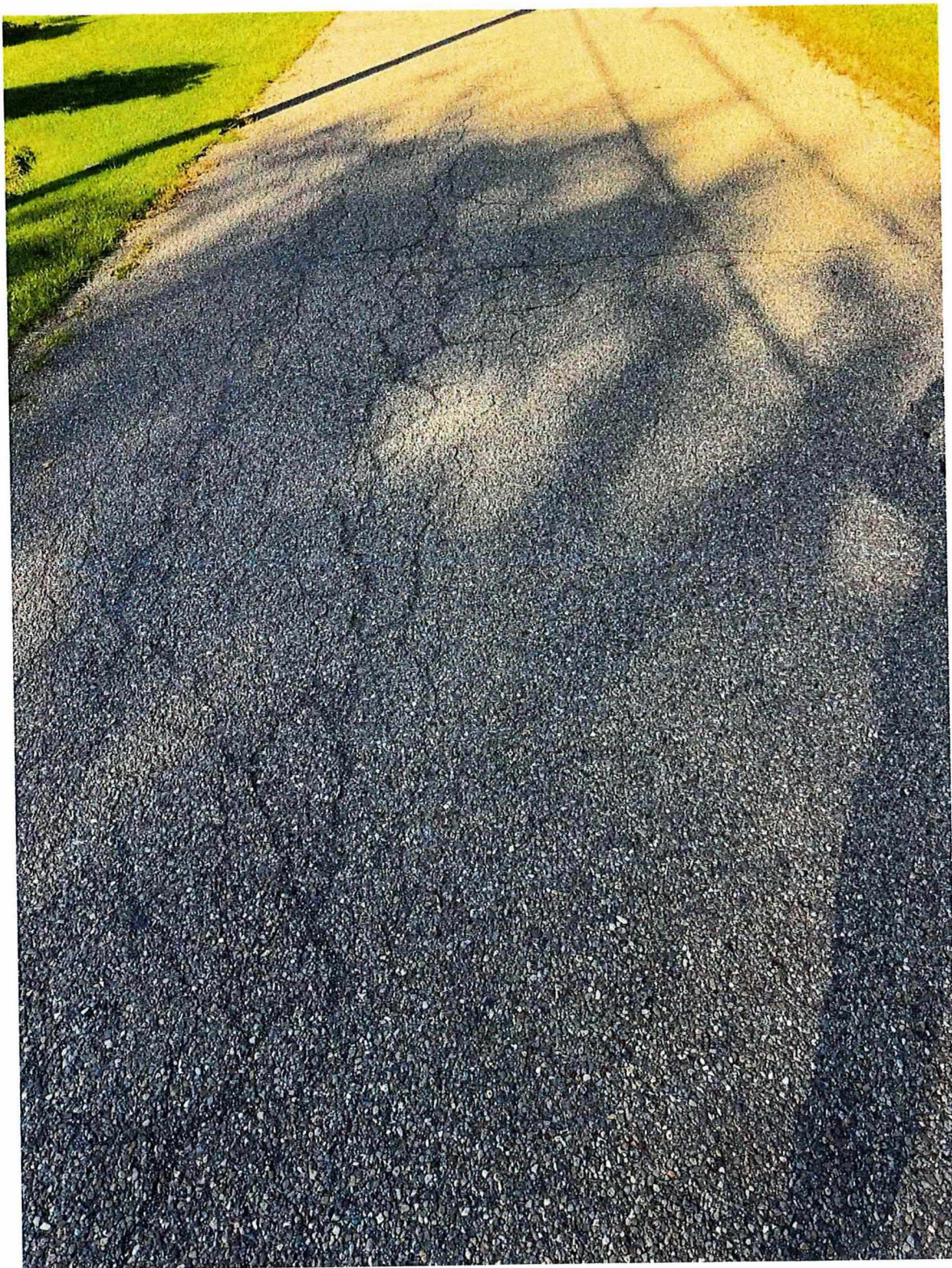


Photo 5 – Oak Street (T-868)



Photo 6 – Cranberry Alley – Narrow Stone Surface

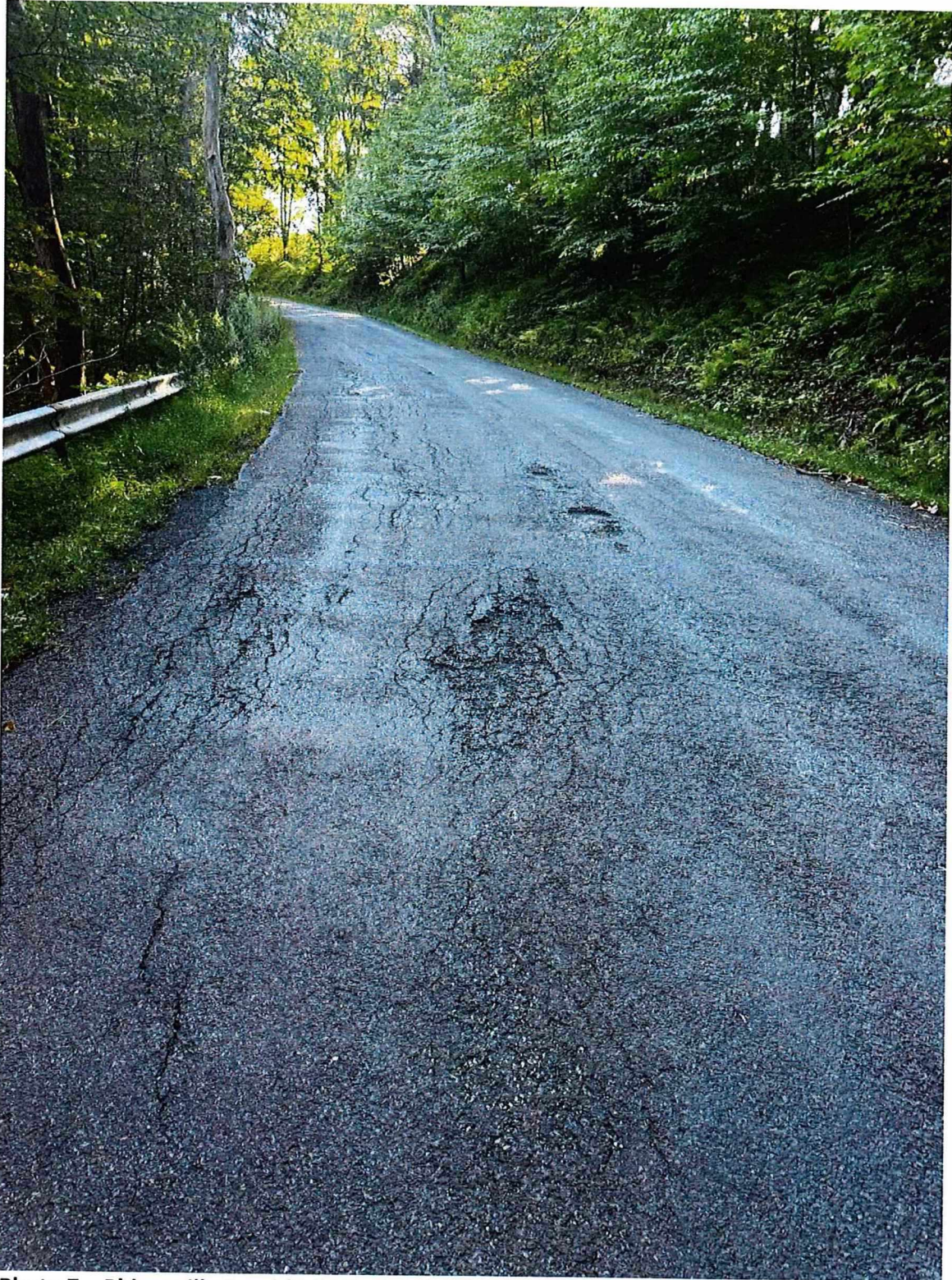


Photo 7 – Phineyville Road (T-875) – Typical Cracking, Rutting, and Shoulder Deterioration

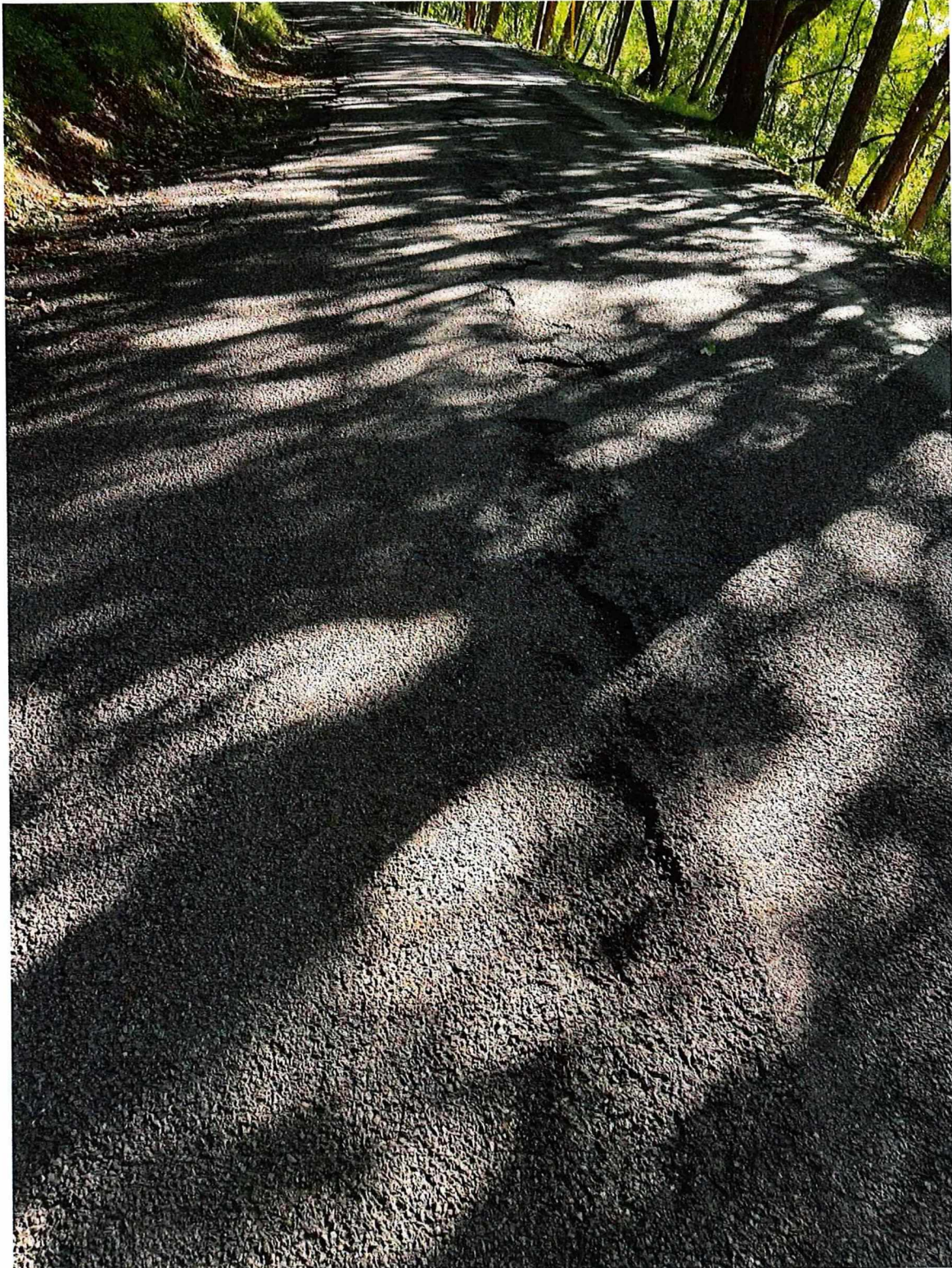
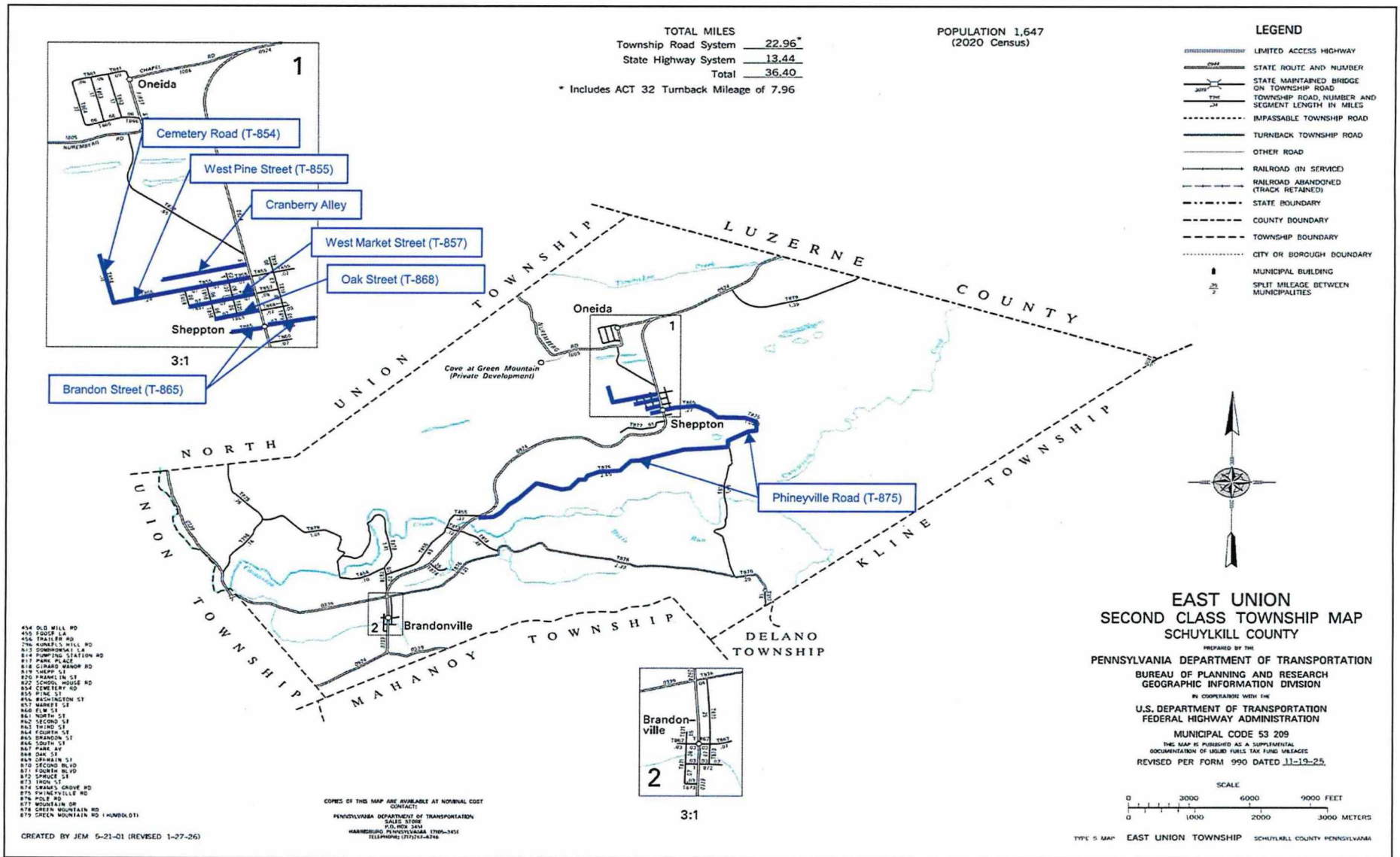


Photo 8 – Phineyville Road (T-875) – Typical Cracking, Rutting, Narrow & Shoulder Deterioration



Photo 9 – Phineyville Road (T-875) – Typical Lack of Adequate Sight Distance/Shoulder Deterioration



Engineering and Traffic Study Various Roadway Weight Limit Posting

East Union Township,
Schuylkill County, Pennsylvania



benesch

Alfred Benesch & Company
Wilkes-Barre, Pennsylvania
(570) 914-9030

Date
5/5/2026

Dwn
PPC

Scale
NTS

PRJ #
0326-609017.02

Location Map

FIGURE

1