

Item Title: Public Hearing on a Request for Disinterment, Relocation, and Reinterment of Approximately two (2) Graves Located at 2520 New Hill-Olive Chapel Road to Oakwood Cemetery (Petition GR-02-18)

Specific Action Requested:

That the Board of Commissioners approves the disinterment, relocation, and reinterment of approximately two (2) graves from a 13-acre property located at 2520 New Hill-Olive Chapel Road to Oakwood Cemetery.

Item Summary:

Purpose: North Carolina General Statutes requires that the Wake County Board of Commissioners holds a public hearing when graves are proposed to be removed by a party other than the next of kin.

Background: This petition for grave disinterment, relocation, and reinterment is submitted by Deborah Joy of Legacy Research Associates on behalf of the current property owners William and Deborah Elmore. The purpose of this petition is to remove the remains within approximately two (2) graves from the 13-acre property located at 2520 New Hill-Olive Chapel Road and to reinter them in Oakwood Cemetery located at 701 Oakwood Avenue near downtown Raleigh, where they will receive perpetual care. The actual number of graves at this location cannot be determined, with certainty, until the site is excavated. The term “approximately” is used to cover however many graves that may be found upon full excavation of the site.

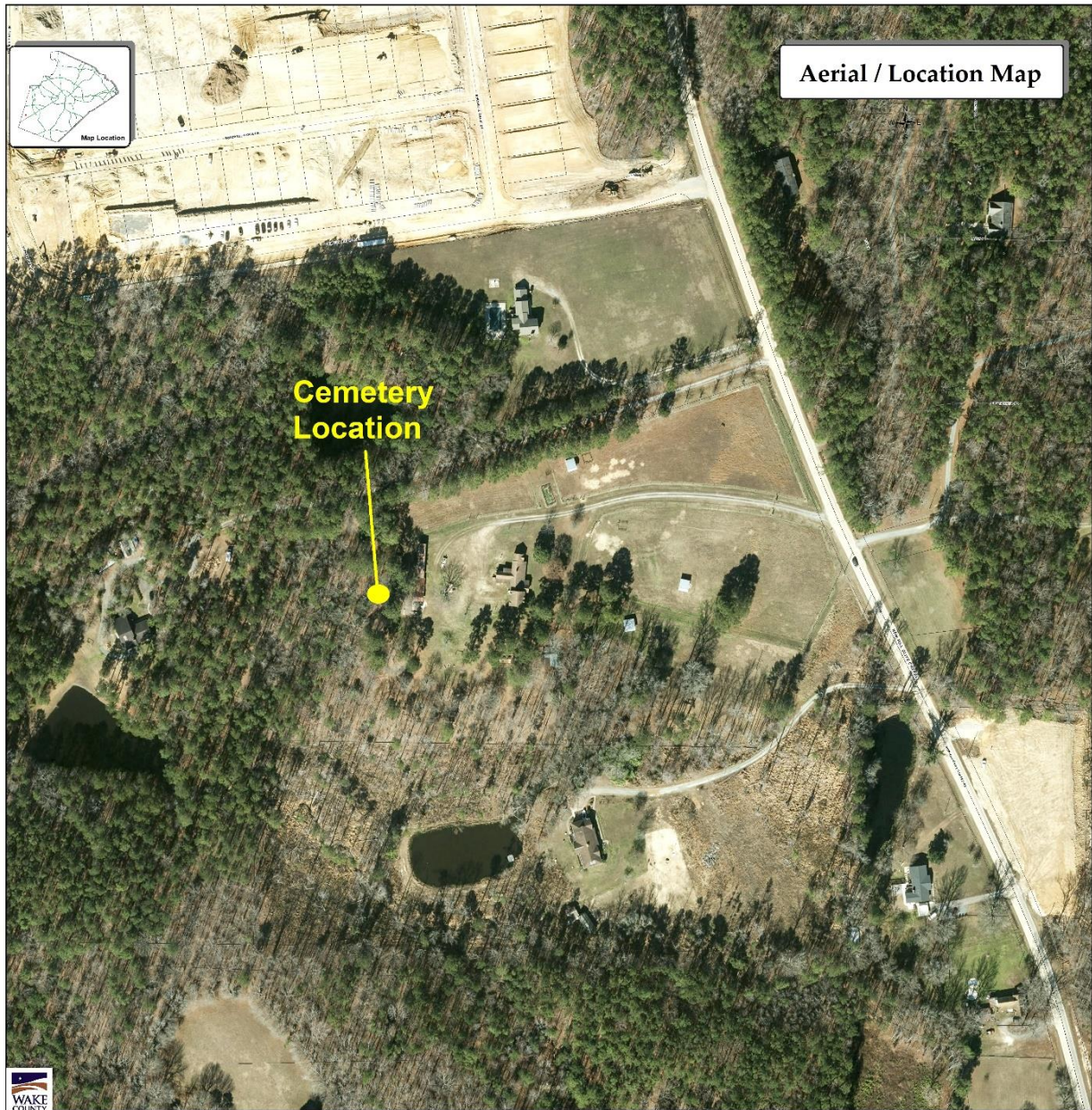
The petitioner indicates that the removal of this cemetery is necessary to accommodate the sale of the property for future development by others.

Board Goal: This action supports standard County operations.

Fiscal Impact: There is no fiscal impact related to this agenda item.

Additional Information:

The cemetery, which is the subject of this grave removal petition, is located within a 13-acre parcel north of Old US 1 and west of New Hill-Olive Chapel Road in the Apex area (see location map below). The site address is 2520 New Hill-Olive Chapel Road and the Parcel Identification Number is 0710747480. The site is located within the Town of Apex’s Long-Range Urban Services Area, but the town has been actively annexing in this general area. The subject cemetery will be referred to as the Elmore property cemetery for the purposes of this summary.



A preliminary archaeological field survey was performed by Deborah Joy of Legacy Research Associates and it identified approximately two (2) graves at this location (see cemetery photograph below). These two graves were readily identifiable by upright tombstones, however, no areas of soft soils (which are indicative of previously dug grave shafts) were found through probing on either side of the tombstones.

There were no inscriptions on either of these tombstones, although the surfaces of the tombstones were well worn/weathered. The archaeologist probed the remainder of the cemetery boundaries, as established by the presence of atypical vegetation in this isolated area (i.e. - holly trees, privet hedge and cedar trees) and found no areas of soft soils.

Even though there is no visible evidence of additional graves in this area, there is a possibility that there may be additional undetected graves whose presence cannot be known until full excavation of the site.



Figure 9. Elmore Property Abandoned Cemetery showing the two headstones, view northeast.

Additional Resources Consulted for Cemetery History:

The planning staff consulted with Capital Area Preservation (CAP) regarding the historical significance of the cemetery under consideration for removal and relocation. Gary Roth, on behalf of CAP, indicated that they had no records regarding these graves and they expressed no objection to the removal of the remains within these graves and their reinterment in Oakwood Cemetery, where they will receive perpetual care. The planning staff also contacted Ms. Irene Kittinger, a volunteer for the Wake County Cemetery Survey group, who also had no record of a cemetery at this location. The County Planning staff contacted the Town of Apex planning staff who had no information about a cemetery on the subject property. Additionally, the planning staff checked the Cemetery Census for Wake County and an internal GIS layer that shows the location of known cemeteries. Neither source showed a cemetery in this area.

Grave Removal Process:

Under the North Carolina General Statutes, any grave that is disinterred is required to be reinterred in a suitable cemetery or burial ground. The remains within these graves that are petitioned for removal, would be reinterred within Oakwood Cemetery located at 701

Oakwood Avenue near downtown Raleigh, where they will receive perpetual care (see reinterment site map below).



The disinterment, removal, and reinterment of the remains within this cemetery shall be performed by a licensed funeral director, and the Wake County Environmental Services staff shall be on site to observe the process (as required by state law). The petitioner (or their funeral director) shall be required to file a Removal of Graves Certificate with the Wake County Register of Deeds office after the work is completed in order to document the relevant facts of the disinterment and reinterment.

NCGS Guidelines:

Section 65-106 (a) (4) of the North Carolina General Statutes requires that the Wake County Board of Commissioners holds a public hearing when graves are proposed to be removed by a party other than the next of kin. A 30-day written notice of intention shall be

given to the next of kin of the deceased (if known) before the disinterment, relocation, and reinterment of any grave occurs. The petitioner shall publish a notice at least once per week for four (4) consecutive weeks in a newspaper of general circulation within the county where the graves are located (the first publication shall be not less than 30 days before disinterment).

Compliance with NCGS:

There are no inscribed tombstones present in this cemetery, therefore no genealogical research as to the persons buried therein could be conducted. The petitioner performed deed research of the subject property in an attempt to identify the persons buried in these graves. Three of the deeds contained references to a cemetery, however there was no record of any specific named individuals being buried therein. The lack of any identification of persons buried in these graves—either by tombstone inscriptions or deed references—precluded the identification of any definitive living next of kin. The petitioner conducted extensive genealogical research of the previous owners of the property and identified a Bennett family researcher, but he indicated that he did not know about the cemetery and had no opposition to relocating the graves.

The petitioner placed a legal advertisement in the News and Observer newspaper for four (4) consecutive weeks in an attempt to notify any next of kin or any other interested parties. The legal notices appeared in the newspaper on May 21st, May 28th, June 4th, and June 11th of 2018. The petitioner has indicated that they did not receive any response to the newspaper advertisements.

Additionally, the Wake County planning staff posted a public hearing notification sign along the subject property's road frontage on October 3rd, 2018 and ran the two standard public hearing notices in the News and Observer newspaper. The legal advertisements and posted signs included contact information for the planning staff. The planning staff has not received any phone calls or inquiries related to this request in response to these notification efforts.

Staff Findings:

1. The petitioner has fulfilled all the requirements for the removal and relocation of the remains within this cemetery as outlined by the North Carolina General Statutes, Section 65-106.
2. The petitioner has indicated that the removal of the cemetery is necessary to accommodate the sale of the property for future development by others.
3. Arrangements have been made for the remains to be reinterred in the Oakwood Cemetery at 701 Oakwood Avenue, where they will receive perpetual care.
4. Neither the petitioner, nor the planning staff, has received any opposition to the removal and relocation of this cemetery.
5. There is no evidence of any historical significance regarding this cemetery and its removal would not be detrimental to the general welfare of the County.

Attachments:

1. GR-02-18 Grave Removal Presentation
2. GR-02-18 Petition and Archaeological Report