

Item Title: Public Hearing on a Request for Disinterment, Relocation and Re-Interment of Approximately One Grave Located at 1116 Martin Pond Road to Oakwood Cemetery (Petition GR-01-16)

Specific Action Requested:

That the Board of Commissioners approves the disinterment, relocation and re-interment of approximately one grave from a 47.1-acre property at 1116 Martin Pond Road to Oakwood Cemetery

Item Summary:

Background: This petition for grave disinterment, relocation and re-interment is submitted by Richard Hibbits, on behalf of the property owner M'Lou Anderson, to remove the remains within approximately one grave. The subject grave(s) will be referred to as the Martin Pond Road cemetery for the purposes of this summary. The grave is surrounded by a number of dry stacked quarried stones measuring approximately twelve (12) feet by eight (8) feet. 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 grave, which is the subject of this grave removal petition, is located within a 47.1-acre farm field that is located south of Knightdale-Eagle Rock Road between US 64 and Martin Pond Road. The site address is 1116 Martin Pond Road and the PIN is 1774113595. The site is located within the Town of Wendell's extraterritorial jurisdiction (ETJ). The state law requires grave removal petitions within the municipal ETJ areas to be processed through the board of commissioners of the county where the abandoned cemetery is located.

The petitioner indicates that the purpose for the removal of the grave is to comply with a condition imposed by the development firm that is proposing to purchase the property from the Anderson family (see attached petition). The petitioner has indicated that the remains within the grave will be moved and reinterred within Oakwood Cemetery, at 701 Oakwood Avenue, near downtown Raleigh, where they will receive perpetual care.

A preliminary archaeological field survey was performed by Heather Millis of TRC Solutions and it identified approximately one possible grave at this location. There is no inscribed tombstone present; however, there is a well weathered flat stone marker erected at the apparent head of the grave. The petitioner has not been able to identify through their deed research the individual buried in this grave. There was nothing to base direct genealogical research upon given the lack of an inscribed grave marker. However, the petitioner had a trained genealogist, Susan Fulton of NAI Carolantic Realty, to conduct genealogical research for the families that had previously owned the property based upon the recorded deeds and plats in the title chain back to the 1870s. The Anderson family, who has owned the property since 1943, knows with certainty that the remains within this grave are not one of their family members. The genealogical research of the families that had previously owned the subject property could not

identify anyone that may have been buried upon this property. Through their efforts the petitioner has not been able to identify any next of kin of the person buried in the cemetery.

Additional Resources Consulted for Cemetery History: The planning staff consulted with Capital Area Preservation (CAP) regarding the historical significance of the grave under consideration for removal and relocation. Gary Roth, on behalf of CAP, indicated that they had no records regarding this grave and that they have no objection to the removal of the grave and its relocation to Oakwood Cemetery, where it will receive perpetual care. Additionally, the planning staff contacted Ms. Irene Kittinger, a volunteer for the Wake County Cemetery Survey group, and the Town of Wendell planning staff. Neither had any information regarding this grave and did not have any objection to the moving of this grave as proposed.

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. This grave, petitioned for removal, would be reinterred within Oakwood Cemetery located at 701 Oakwood Avenue, near downtown Raleigh, where it will receive perpetual care.

The removal and re-interment of the remains within this grave shall be performed by a licensed funeral director, and the Wake County Environmental Services staff shall be on site to observe the process. The petitioner (or their funeral director) shall be required to file a disinterment/re-interment form with the Wake County Register of Deeds office after the work is completed in order to document the relevant facts of the disinterment and re-interment.

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 re-interment 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: The petitioner, Richard Hibbits and his consultants performed deed research of the subject property in an attempt to identify any next of kin and to notify any other interested parties. They were unable to conduct any direct genealogical research because there was no inscribed tombstone present, nor any records identifying persons who may be buried in this cemetery. The petitioner placed a legal advertisement in the News and Observer newspaper for four (4) consecutive weeks in an attempt to identify any next of kin and to notify any interested parties. The legal notices appeared in the newspaper on June 30th, July 7th, 14th and 21st of 2016. The petitioner has indicated that, through their research, they have not been able to identify any descendants, and that they did not receive any response to the newspaper advertisements.

Additionally, the Wake County planning staff posted public hearing notification signs along the subject property's road frontage on November 25th, 2016, and ran the two standard public hearing notices in the 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 of the requirements for the removal and relocation of the remains within this grave as outlined by the North Carolina General Statutes, Section 65-106.
2. The petitioner has indicated that the removal of the grave 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 Oakwood Cemetery, near downtown Raleigh, 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 grave.
5. There is no evidence of any historical significance regarding this grave and its removal would not be detrimental to the general welfare of the County.

Attachments:

1. GR-01-16 Cemetery PowerPoint
2. GR-01-16 Petition, Archaeological Report, and Supplemental Information
3. GR-01-16 Location/Aerial Map