

Item Title: Public Hearing on a Request for Disinterment, Relocation, and Reinterment of Approximately 53 Graves Located at 1208 Barley Stone Way to Oakwood Cemetery (Petition GR-01-17)

Specific Action Requested:

That the Board of Commissioners approves the disinterment, relocation, and reinterment of approximately 53 graves from a 6.81-acre tract located at 1208 Barley Stone Way to Oakwood Cemetery.

Item Summary:

This petition for grave disinterment, relocation, and reinterment is submitted by Deborah Joy, of Legacy Research Associates, on behalf of Jerry Radman of Caruso Homes at Olde Mill Trace, LLC. 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. The purpose of the petition is to remove the remains within approximately 53 graves and to reinter them within Oakwood Cemetery near downtown Raleigh. The subject cemetery will be referred to as the Olde Mill Trace cemetery for the purposes of this summary. 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 cemetery, which is the subject of this grave removal petition, is located within a 6.81-acre parcel near the northern end of the Olde Mill Trace subdivision, just east of Lake Wheeler Road near its intersection with Penny Road and Yates Mill Pond Road. The site address is 1208 Barley Stone Way and the Parcel Identification Number is 0791451498. The site is located within the Town of Garner's Short-Range Urban Services Area (SRUSA).

The petitioner indicates that the removal of this cemetery is necessary to allow for the residential development of homes on lots 154 and 155 of the Olde Mill Trace residential community. The petitioner has indicated that the remains within these graves will be removed and reinterred within Oakwood Cemetery near downtown Raleigh where they will receive perpetual care.

A preliminary archaeological field survey was performed by Deborah Joy of Legacy Research and it identified approximately 53 possible graves at this location. There are no inscribed tombstones present in this cemetery, but many of the probable graves have fieldstone markers. Additionally, the petitioner/archaeologist observed the presence of a number of apparent sunken grave shafts, that are indicative of likely graves. There may be additional undetected graves in the cemetery whose presence cannot be known until full excavation of the site.

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 that they have no objection to the removal and relocation of the remains. Additionally, the planning staff contacted Irene Kittinger, a volunteer for the Wake County Cemetery Survey group, and the Town of Garner planning staff. Neither had any information regarding these graves and did not have any objection to the moving of the remains within these graves 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. 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 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:

The petitioner, Deborah Joy, could not perform any genealogical research in an attempt to identify next of kin due to the lack of any inscribed tombstones in this cemetery, therefore there are no known next of kin to notify. The petitioner conducted deed/title research of the previous owners of the subject property dating back to 1845. None of those records referenced any graves on the subject property.

The petitioner placed a legal advertisement in the News & Observer newspaper for four (4) consecutive weeks to notify any next of kin or other interested parties. The petitioner's legal notices appeared in the newspaper on September 6th, 13th, 20th, and 27th of 2017. 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 April 6, 2018, and ran the two (2) standard public hearing notices in the News & Observer newspaper on April 6th and 9th, 2018. The legal advertisements and posted sign 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 allow development of these two residential lots.
3. Arrangements have been made for the remains to be reinterred within the Oakwood Cemetery 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-01-17 Grave Removal Presentation
2. GR-01-17 Cemetery Location Map
3. GR-01-17 Petition and Archaeological Report