

Item Title: Public Hearing on a Request for Disinterment, Relocation, and Reinterment of Approximately Two (2) Outlier Graves Located at 1323 South Franklin Street to the Adjacent Old Cemetery of Friendship Chapel Missionary Baptist Church at 1321 South Franklin Street near Wake Forest (Petition PLG-GR-002291-2020)

Specific Action Requested:
That the Board of Commissioners:

- 1. Holds a public hearing and approves the disinterment, relocation, and reinterment of approximately two (2) outlier graves located at 1323 South Franklin Street to the adjacent Old Cemetery of Friendship Chapel Missionary Baptist Church at 1321 South Franklin Street near Wake Forest (petition PLG-GR-002291-2020); and**
- 2. Directs County staff to continue receiving public comments on this item until January 20, 2021 at 5:00 PM, and to place this item on the agenda of the February 1, 2021 Board meeting.**

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 property owner Scott Lay, Principal of Holding Village, LLC. The purpose of this petition is to remove the remains within approximately two (2) outlier graves associated with the Old Cemetery of Friendship Chapel Missionary Baptist Church from the 17.14-acre property located at 1323 South Franklin Street in northern Wake County, and to reinter them approximately 30 feet away within the boundaries of the adjacent Old Cemetery at 1321 South Franklin Street near Wake Forest where they will be preserved within their original historical context and protected from pending road improvements.

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.

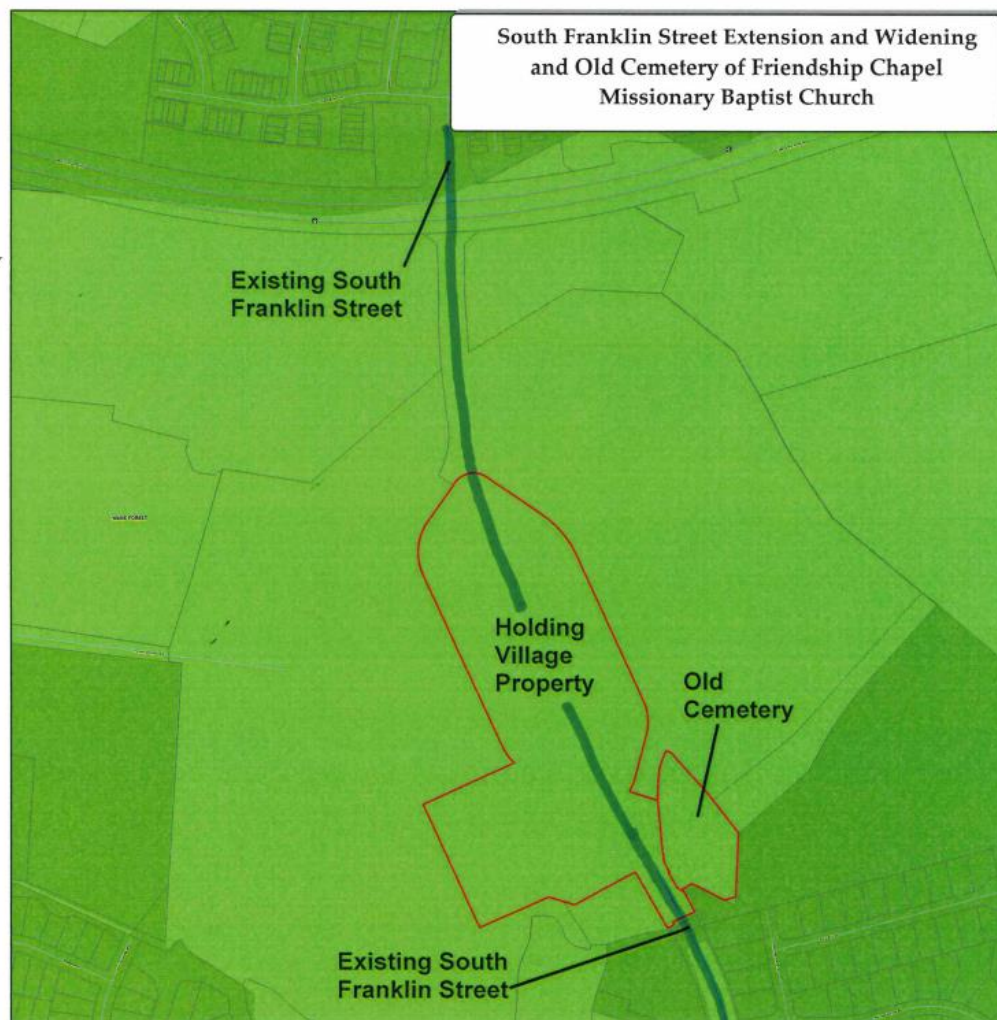
The petitioner indicates that the removal of these two outlier graves is necessary to accommodate road improvements required by the Town of Wake Forest as part of a pending residential development.

Board Goal: This action supports routine County operations.

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

Additional Information:

The two outlier graves are located within the 17.14-acre Holding Village property located near the end of South Franklin Street. The address is 1323 South Franklin Street (PIN 1840551011). This property is being developed by Holding Village, LLC as a residential development. As part of the development Holding Village LLC is being required to extend, and widen, South Franklin Street from where it ends at the southernmost point of their property in an alignment along the western edge of the Old Cemetery of Friendship Chapel Missionary Baptist Church. This will allow for the future connection of this southern section of South Franklin Street with the northern section of South Franklin Street which lies just north of NC 98 (approximately a half mile to the north) in accordance with the Town of Wake Forest's Comprehensive Transportation Plan. Please see the blue line on the map below that illustrates the centerline of the proposed road connection.



The site is located within the Town of Wake Forest's extraterritorial jurisdiction (ETJ) and is zoned for residential development. 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 subject cemetery where these two outlier graves will be reinterred will be referred to as Old Cemetery for the purposes of this report. The address for the 1.97-acre Old Cemetery parcel is 1321 South Franklin Street (PIN 1840546622). There are about a dozen inscribed tombstones in the Old Cemetery with burial dates ranging from 1900 to 1954, although it is believed that some of the unmarked graves may date to the 1870s. The age of these two outlier graves cannot be determined beyond that range.

Special Information Regarding Historic Status:

The Old Cemetery of Friendship Chapel Missionary Baptist Church was designated as a Local Historic Landmark Property in 2017 via an ordinance adopted by the Wake Forest Board of Commissioners. In consultation with the County and Town planning staffs it was determined that there was a possibility of the proposed development encroaching upon the informal cemetery boundaries.

Based upon the planning staff's comments, the developer had a more detailed ground penetrating radar (GPR) survey done with an emphasis around the perimeter of the cemetery. As a result of this GPR study the developer made several adjustments to their site design, however given the required road improvements needed to comply with the town's transportation plan, encroachment upon these two outlier graves could not be avoided. There were also two small areas of the cemetery property that were needed to accommodate the development.

Representatives of Holding Village, LLC (aka Reader Communities) approached the pastor and board of trustees for the Friendship Chapel Missionary Baptist Church and negotiated a land swap whereby they would obtain the small areas that they needed (766 square feet) and in exchange would provide the church with 7,480 square feet of land to act as a buffer around the perimeter of the cemetery. The noted land swaps are shown on the recorded survey on the following page and provided protection for at least 15 graves. Additionally, Holding Village, LLC agreed to construct a four-foot tall chain link fence (clad in black vinyl) around the perimeter of the cemetery with an access gate for future maintenance and visitation.

The pastor and the chairman of the church's board of trustees also supported the relocation of these two outlier graves to within the newly fenced in boundaries of the Old Cemetery. They noted that "We believe that [Holding Village's] thoughtful steps taken to evaluate the existing boundary, combined with the additional buffer, considerate planning of the area along with a perimeter fence will help ensure the long-term preservation of the historic cemetery." Please see their letter of support in Appendix A of the attached archaeological report.

Since the Old Cemetery was a designated Local Historic Landmark Property, the proposed changes to the cemetery boundaries via the land swaps noted above, the construction of the protective fencing, and the removal and relocation of the two outlier graves required a Certificate of Appropriateness (COA) from the Wake Forest Historic

Preservation Commission and endorsement of the State Historic Preservation Office (SHPO).

The Wake Forest Historic Preservation Commission and SHPO imposed conditions that required that an archaeological monitor must be on site during all construction activities including site preparation and fence installation, and adding a sign on the gate “to notify visitors of the sacred place and not to disturb it”. SHPO additionally required a 30-foot protective zone with orange protection fencing around the two outlier graves and prohibited “mechanized ground disturbance” within that protected area.

The Appendix to the archaeological report includes the town’s historic landmark designation ordinance, a letter of support from the pastor and chairman of the board of trustees of the Friendship Chapel Missionary Baptist Church, the Town’s Historic Preservation Commission’s Certificates of Appropriateness, and letters of endorsement from SHPO.

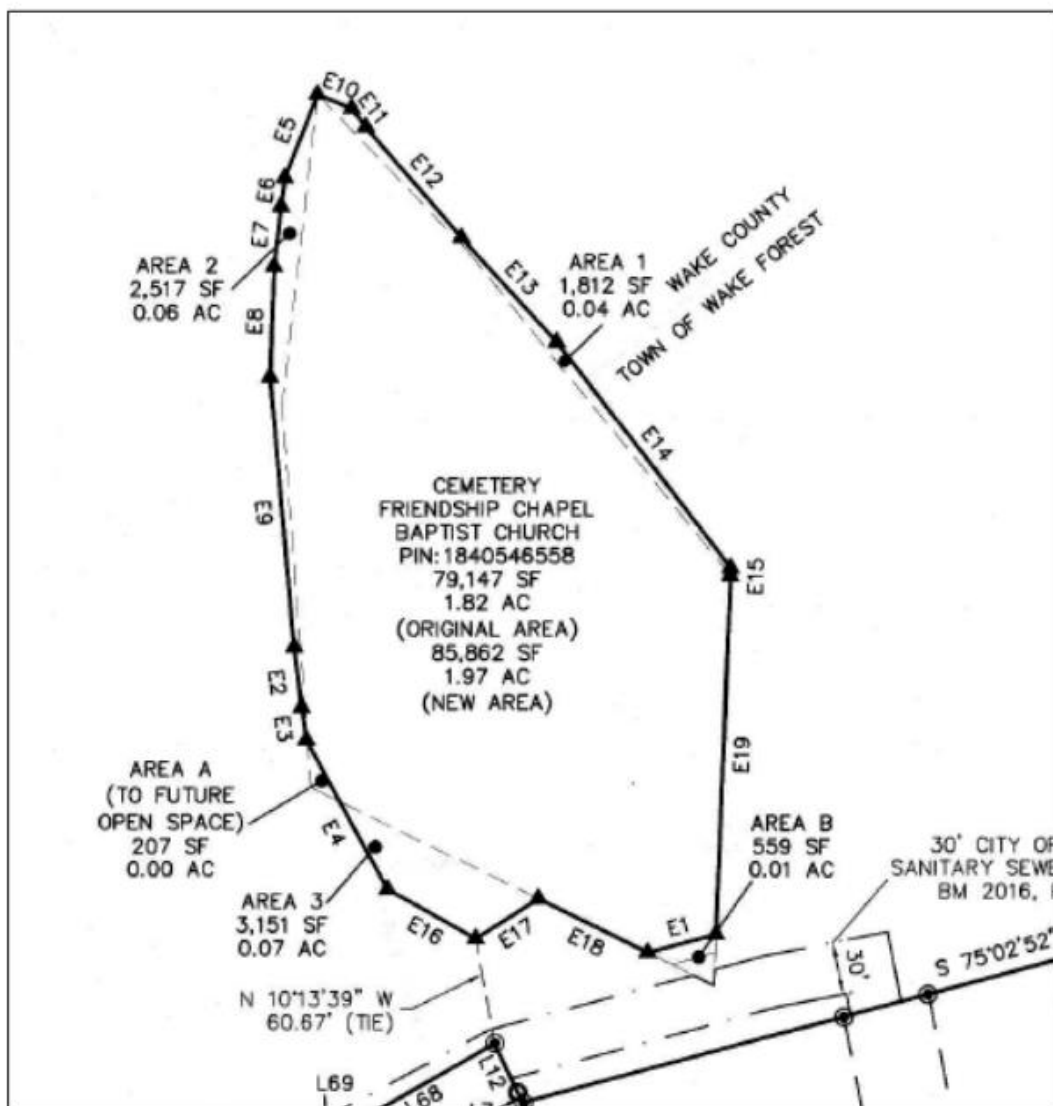


Figure 1. Excerpt of Recombination Plat showing land swaps Area A and Area B conveyed by Friendship Chapel to Holding Village and Areas 1, 2, and 3 conveyed by Holding Village to Friendship Chapel (Wake County Register of Deeds, Book of Maps 2020, Page 345).

Archaeological Field Investigation:

A preliminary archaeological field survey was performed by Deborah Joy of Legacy Research Associates and it identified approximately two (2) outlier graves at this location (see the cemetery photograph below). There are no inscribed tombstones or fieldstone markers associated with these two outlier graves.

There was no evidence of additional burials (i.e. - individual grave markers or depressed grave shafts) within this area, however there was a large tree that had fallen in close proximity to these two graves. In accordance with the terms of a Certificate of Appropriateness granted by the Wake Forest Historic Preservation Commission, and endorsed by SHPO, no mechanical equipment can be used within the area around these two isolated graves so this fallen tree will have to be removed by hand.



Figure 4. Grave 1 and Grave 2 on Holding Village Property, view northwest.

Even though there is no visible evidence of additional graves within this immediate area, there is a possibility that there may be undetected graves whose presence cannot be known until full excavation of the site. This grave removal petition, if approved, would authorize the disinterment, relocation and reinterment of however many graves are found upon full excavation of the site.

Additional Resources Consulted for Cemetery History:

The Planning staff consulted with the County's historic resources consultant, Capital Area Preservation (CAP), regarding the historical significance of the Old Cemetery and their opinion on the removal and relocation of these two outlier graves. Gary Roth, on behalf of CAP, indicated that they had no objection to the request.

As noted above the subject property is located within the Town of Wake Forest's extra-territorial jurisdiction (ETJ). The County planning staff has been coordinating discussions regarding this cemetery with the Town of Wake Forest planning staff for over two years and the town's efforts in coordinating with the developer and the church along with their Historic Preservation Commission and SHPO. As noted above the town has worked closely with all parties and supports the proposed disinterment, relocation and reinterment.

Additionally, the Wake County Planning staff checked the Cemetery Census for Wake County and an internal GIS layer that shows the location of known cemeteries. Both sources provided documentation of this cemetery. In particular, the Cemetery Census database reported that Shirley Olson walked this cemetery in 2006 and provided a general description of the cemetery as being neglected and overgrown and observed that it would probably be impacted by the planned extension of South Franklin Street.

The petitioner/archaeologist also consulted three on-line databases for cemeteries and found a replication of the Cemetery Census observations in Interment.net. The other online databases reported no information on this cemetery.

Grave Removal Process:

Under the North Carolina General Statutes, any grave that is disinterred is required to be reinterred in a "suitable" cemetery. The remains within these two outlier graves that are petitioned for relocation, if approved, would be reinterred approximately 30 feet to the northeast within the formal boundaries of the Old Cemetery of Friendship Chapel Missionary Baptist Church at 1321 South Franklin Street (PIN 1840546622).

Generally, "suitable" would mean a formal perpetual care cemetery that is actively maintained at a park-like level. However, these two outlier graves are clearly associated with the Old Cemetery of Friendship Chapel Missionary Baptist Church, which is in a somewhat rustic condition, but it is important to preserve these graves within their original historical context (see the site map and photograph of the reinterment site on the following page).

The disinterment, removal, and reinterment of the remains within these two outlier graves 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 funeral director, or petitioner, 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.

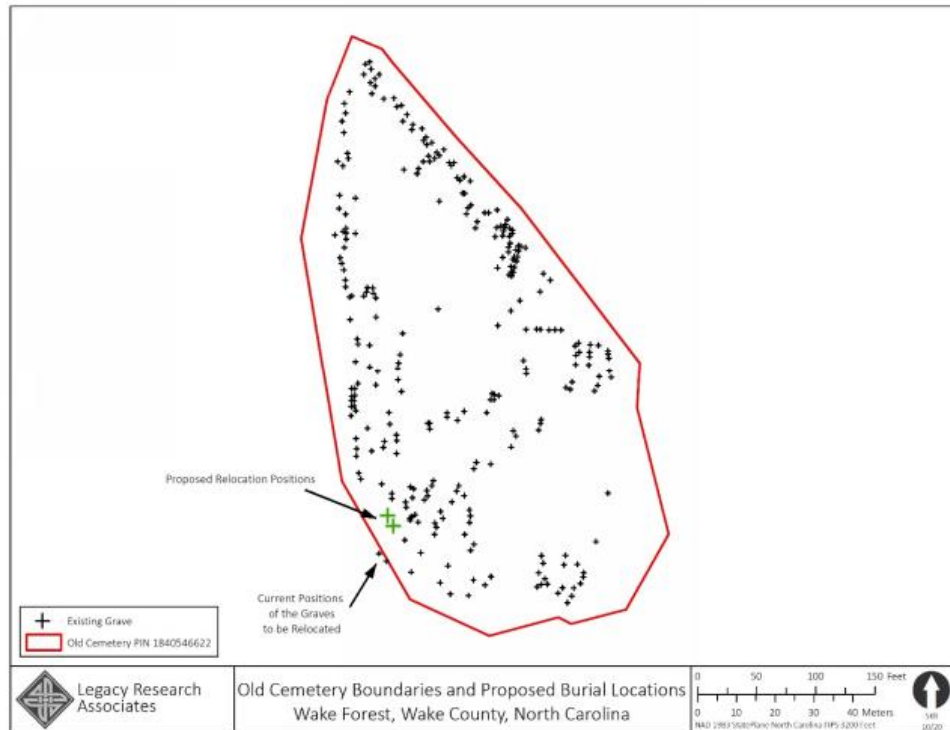


Figure 3. Map of the Old Cemetery showing the GPR location of the two unmarked outlier graves on Holding Village property and their proposed reinterment location within the Old Cemetery.



Figure 7. Proposed Reinterment Site of Grave 1 and Grave 2 within the Old Cemetery, view north.

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. The petitioner shall provide a 30-day written notice of intention 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 was not able to perform any genealogical research related to the remains within these two outlier graves because there are no inscribed tombstones upon which to base such research. The petitioner also checked with the church office to see if they had any records as to who may be buried in these two graves; they did not. Additionally, the petitioner indicated that the Old Cemetery has been in the church's ownership since the first acre of land was dedicated to the church in 1881 (although the record is unclear when the balance of the land was acquired). Therefore, deed research would provide no clues as to who may be buried in these graves. Given these circumstances the petitioner was unable to identify any living descendants of these unknown individuals.

The petitioner placed a legal advertisement in the Raleigh 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 March 27th and April 3rd, 10th and 17th of 2020. 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 South Franklin Street road frontage in front of the two outlier graves on January 7th, 2021 and ran the two standard public hearing notices in the News and Observer newspaper on January 8th and 11th, 2021. 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 these two outlier graves as outlined by the North Carolina General Statutes, Section 65-106.
2. The petitioner has indicated that the relocation of these two outlier graves is necessary to accommodate road improvements required by the Town of Wake Forest to extend, and widen, South Franklin Street as part of a pending residential development.
3. The remains within these two outlier graves will be relocated to within the boundaries of the Old Cemetery of Friendship Chapel Missionary Baptist Church where they will be preserved within their original historical context and protected from pending road improvements.
4. Neither the petitioner, nor the Planning staff, have received any opposition to the removal and relocation of these two outlier graves.
5. The relocation of these two outlier graves to within the Old Cemetery would not be detrimental to the general welfare of the County.
6. The pastor and chairman of the board of trustees of Friendship Chapel Missionary Baptist Church are supportive of the relocation of these two outlier graves to within the Old Cemetery's boundaries.

7. The Wake Forest Historic Preservation Commission and the State Historic Preservation Office have approved the relocation of these two outlier graves, the adjustments to the cemetery boundaries, and the construction of the protective fencing.

Attachments:

1. Presentation
2. PLG-GR-002291-2020 Petition
3. Archaeological Report