



## REQUEST FOR BOARD ACTION

ITEM NO. 22.

**DATE OF MEETING:** May 21, 2012

**REQUESTED BY:** Benjamin Andrea, Planner II, Planning & Community Development

**SHORT TITLE:** Public Hearing and Resolution Requesting Approval to Disinter Graves.

**BACKGROUND:** Robert and Marianne Orr, property owners, are requesting the consent of the Pender County Board of Commissioners to disinter forty-six marked and two unmarked graves within a 0.08 acre cemetery located on the property identified by Pender County PIN 4225-90-3854-0000. The subject property is located off of Watts Landing Road in the Topsail Township.

The property owners are seeking the consent of the Pender County Board of Commissioners pursuant to the requirements set forth in North Carolina General Statute § 65-106 (emphasis added):

*§ 65-106. Removal of graves; who may disinter, move, and reinter; notice; certificate filed; reinterment expenses; due care required.*

*(a) The State of North Carolina and any of its agencies, public institutions, or political subdivisions, the United States of America or any agency thereof, any church, electric power or lighting company, or any person, firm, or corporation may effect the disinterment, removal, and reinterment of graves as follows:*

*(1) By the State of North Carolina, or any of its agencies, public institutions, or political subdivisions, the United States of America or any agency thereof, when it shall determine and certify to the board of county commissioners in the county from which the bodies are to be disinterred that such removal is reasonably necessary to perform its governmental functions and the duties delegated to it by law.*

*(2) By any church authority in order to erect a new church, parish house, parsonage, or any other facility owned and operated exclusively by such church; in order to expand or enlarge an existing church facility; or better to care for and maintain graves not located in a regular cemetery for which such church has assumed responsibility of care and custody.*

*(3) By an electric power or lighting company when it owns land on which graves are located, and the land is to be used as a reservoir.*

**RESOLUTION**

**NOW, THEREFORE BE IT RESOLVED** by the Pender County Board of Commissioners that:

the Board hereby (approved, modified, denied) a request to disinter graves, as described herein. The Chairman/County Manager is authorized to execute any/all documents necessary to implement this resolution.

**AMENDMENTS:**

MOVED \_\_\_\_\_ SECONDED \_\_\_\_\_

APPROVED \_\_\_\_\_ DENIED \_\_\_\_\_ UNANIMOUS

YEA VOTES: Brown \_\_\_ Tate \_\_\_ Rivenbark \_\_\_ Ward \_\_\_ Williams \_\_\_

\_\_\_\_\_  
Chairman 5/21/2012  
Date

\_\_\_\_\_  
ATTEST Date

***(4) By any person, firm, or corporation who owns land on which an abandoned cemetery is located after first securing the consent of the governing body of the municipality or county in which the abandoned cemetery is located.***

North Carolina General Statute § 65-85 defines what constitutes an abandoned cemetery (emphasis added):

*§ 65-85. Definitions.*

*As used in this Article, the following terms mean:*

***(1) Abandoned.*** – *Ceased from maintenance or use by the person with legal right to the real property with the intent of not again maintaining the real property in the foreseeable future.*

***(2) Cemetery.*** – *A tract of land used for burial of multiple graves.*

***(3) Department.*** – *The Department of Cultural Resources.*

***(4) Grave.*** – *A place of burial for a single decedent.*

***(5) Neglected.*** – *Left unattended or uncared for through carelessness or intention and lacking a caretaker.*

***(6) Public cemetery.*** – *A cemetery for which there is no qualification to purchase, own, or come into possession of a grave in that cemetery. (2007-118, s. 1.)*

The property owners have contracted with an archaeological consulting firm, Of Grave Concerns, Inc. to assist in evaluating the proposed disinterment, movement, and reinterment of the subject graves. The firm's principal, John W. Clauser Jr., has prepared a report (attached) that further overviews the research, field investigation, historical significance evaluation, planning options, and how the proposal would adhere to the additional provisions of North Carolina General Statute § 65-106.

**SPECIFIC ACTION REQUESTED:** To hold a public hearing and consider the approval of a request to disinter graves located within a cemetery on property owned by Robert and Marianne Orr identified by Pender County PIN 4225-90-3854-0000.

## Relevant North Carolina General Statutes

§ 65-74: Repealed by Session Laws 2007-118, s. 6, effective July 1, 2007, and applicable to all trusts created on or after that date.

§ 65-75: Repealed by Session Laws 2007-118, s. 6, effective July 1, 2007, and applicable to all trusts created on or after that date.

### § 65-85. Definitions.

As used in this Article, the following terms mean:

- (1) Abandoned. – Ceased from maintenance or use by the person with legal right to the real property with the intent of not again maintaining the real property in the foreseeable future.
- (2) Cemetery. – A tract of land used for burial of multiple graves.
- (3) Department. – The Department of Cultural Resources.
- (4) Grave. – A place of burial for a single decedent.
- (5) Neglected. – Left unattended or uncared for through carelessness or intention and lacking a caretaker.
- (6) Public cemetery. – A cemetery for which there is no qualification to purchase, own, or come into possession of a grave in that cemetery. (2007-118, s. 1.)

### § 65-101. Entering public or private property to maintain or visit with consent.

Any of the following persons, with the consent of the public or private landowner, may enter the property of another to discover, restore, maintain, or visit a grave or abandoned public cemetery:

- (1) A descendant of the person whose remains are reasonably believed to be interred in the grave or abandoned public cemetery.
- (2) A descendant's designee.
- (3) Any other person who has a special personal interest in the grave or abandoned public cemetery. (1987, c. 686, s. 1; 1991, c. 36, s. 1; 2007-118, s. 1.)

### § 65-102. Entering public or private property to maintain or visit without consent.

(a) If the consent of the landowner cannot be obtained, any person listed in G.S. 65-101(1), (2), or (3) may commence a special proceeding by petitioning the clerk of superior court of the county in which the petitioner has reasonable grounds to believe the grave or abandoned public cemetery is located for an order allowing the petitioner to enter the property to discover, restore, maintain, or visit the grave or abandoned public cemetery. The petition shall be verified. The special proceeding shall be in accordance with the provisions of Articles 27A and 33 of Chapter 1 of the General Statutes. The clerk shall issue an order allowing the petitioner to enter the property if the clerk finds all of the following:

- (1) There are reasonable grounds to believe that the grave or abandoned public cemetery is located on the property or it is reasonably necessary to enter or cross the landowner's property to reach the grave or abandoned public cemetery.
- (2) The petitioner, or the petitioner's designee, is a descendant of the deceased, or the petitioner has a legitimate historical, genealogical, or governmental interest in the grave or abandoned public cemetery.

- (3) The entry on the property would not unreasonably interfere with the enjoyment of the property by the landowner.
- (b) The clerk's order may state one or more of the following:
  - (1) Specify the dates and the daylight hours that the petitioner may enter and remain on the property.
  - (2) Grant the petitioner the right to enter the landowner's property periodically, as specified in the order, after the time needed for initial restoration of the grave or abandoned public cemetery.
  - (3) Specify a reasonable route from which the petitioner may not deviate in all entries and exits from the property. (1987, c. 686, s. 1; 1991, c. 36, s. 1; 1999-216, s. 12; 2007-118, s. 1.)

**§ 65-106. Removal of graves; who may disinter, move, and reinter; notice; certificate filed; reinterment expenses; due care required.**

- (a) The State of North Carolina and any of its agencies, public institutions, or political subdivisions, the United States of America or any agency thereof, any church, electric power or lighting company, or any person, firm, or corporation may effect the disinterment, removal, and reinterment of graves as follows:
  - (1) By the State of North Carolina or any of its agencies, public institutions, or political subdivisions, the United States of America or any agency thereof, when it shall determine and certify to the board of county commissioners in the county from which the bodies are to be disinterred that such removal is reasonably necessary to perform its governmental functions and the duties delegated to it by law.
  - (2) By any church authority in order to erect a new church, parish house, parsonage, or any other facility owned and operated exclusively by such church; in order to expand or enlarge an existing church facility; or better to care for and maintain graves not located in a regular cemetery for which such church has assumed responsibility of care and custody.
  - (3) By an electric power or lighting company when it owns land on which graves are located, and the land is to be used as a reservoir.
  - (4) By any person, firm, or corporation who owns land on which an abandoned cemetery is located after first securing the consent of the governing body of the municipality or county in which the abandoned cemetery is located.
- (b) The party effecting the disinterment, removal, and reinterment of a grave containing a decedent's remains under the provisions of this Part shall, before disinterment, give 30 days' written notice of such intention to the next of kin of the decedent, if known or subject to being ascertained by reasonable search and inquiry, and shall cause notice of such disinterment, removal, and reinterment to be published at least once per week for four successive weeks in a newspaper of general circulation in the county where such grave is located, and the first publication shall be not less than 30 days before disinterment. Any remains disinterred and removed hereunder shall be reinterred in a suitable cemetery.
- (c) The party removing or causing the removal of all such graves shall, within 30 days after completion of the removal and reinterment, file with the register of deeds of the county from which the graves were removed and with the register of deeds of the county

in which reinterment is made, a written certificate of the removal facts. Such certificate shall contain the full name, if known or reasonably ascertainable, of each decedent whose grave is moved, a precise description of the site from which such grave was removed, a precise description of the site and specific location where the decedent's remains have been reinterred, the full and correct name of the party effecting the removal, and a brief description of the statutory basis or bases upon which such removal or reinterment was effected. If the full name of any decedent cannot reasonably be ascertained, the removing party shall set forth all additional reasonably ascertainable facts about the decedent including birth date, death date, and family name. The fee for recording instruments in general, as provided in G.S. 161-10(a)(1), for registering a certificate of removal facts shall be paid to the register of deeds of each county in which such certificate is filed for registration.

(d) All expenses of disinterment, removal, and acquisition of the new burial site and reinterment shall be borne by the party effecting such disinterment, removal, and reinterment, including the actual reasonable expense of one of the next of kin incurred in attending the same, not to exceed the sum of two hundred dollars (\$200.00).

G.S. 65-106 Page 2

(e) The Office of Vital Records of North Carolina shall promulgate regulations affecting the registration and indexing of the written certificate of the removal facts, including the form of that certificate.

(f) The party effecting the disinterment, removal, and reinterment of a decedent's remains under the provisions of this Part shall ensure that the site in which reinterment is accomplished shall be of such suitable dimensions to accommodate the remains of that decedent only and that such site shall be reasonably accessible to all relatives of that decedent, provided that the remains may be reinterred in a common grave where written consent is obtained from the next of kin. If under the authority of this Part, disinterment, removal, and reinterment are effected by the State of North Carolina or any of its agencies, public institutions, or political subdivisions, the United States of America or any agency thereof, any electric power or lighting company, then such disinterment, removal, and reinterment shall be performed by a funeral director duly licensed as a "funeral director" or a "funeral service licensee" under the provisions of Article 13A of Chapter 90 of the General Statutes.

(g) All disinterment, removal, and reinterment under the provisions of this Part shall be made under the supervision and direction of the county board of commissioners or other appropriate official, including the local health director, appointed by such board for the county where the disinterment, removal, and reinterment take place. If reinterment is effected in a county different from the county of disinterment with the consent of the next of kin of the deceased whose remains are disinterred, then the disinterment and removal shall be made under the supervision and direction of the county board of commissioners or other appropriate official, including the local health director, appointed by such board for the county of the disinterment, and the reinterment shall be made under the supervision and direction of the county board of commissioners or other appropriate official, including the local health director, appointed by such board for the county of reinterment. Due care shall be taken to do said work in a proper and decent manner, and, if necessary, to furnish suitable coffins or boxes for reintering such remains. Due care shall also be taken to remove, protect, and replace all tombstones or other markers, so as

to leave such tombstones or other markers in as good condition as that prior to disinterment. Provided that in cases where the remains are to be moved to a perpetual care cemetery or other cemetery where upright tombstones are not permitted, a suitable replacement marker shall be provided.

(h) Nothing contained in this Part shall be construed to grant or confer the power or authority of eminent domain, or to impair the right of the next of kin of a decedent to remove or cause the removal, at his or their expense, of the remains or grave of such decedent. (1919, c. 245; C.S., ss. 5030, 5030(a); Ex. Sess. 1920, c. 46; 1927, c. 23, s. 1; c. 175, s. 1; 1937, c. 3; 1947, cc. 168, 576; 1961, c. 457; 1963, c. 915, s. 1; 1965, c. 71; 1971, c. 797, s. 1; 1977, c. 311, s. 1; 2001-390, s. 3; 2007-118, s. 1.)

**Pender County  
Board of Commissioners**

**Grave Removal Petition**

**Atkinson Cemetery**

**Representative:** Of Grave Concerns

Telephone: 919 839 0501

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**Address:** 1523 Hanover St.  
Raleigh, NC 27608

**Petitioner:** Robert and Marianne Orr

**Property Owner:** Robert and Marianne Orr  
P.O. Box 3158  
Topsail Beach, NC 28445

**Reason for move:** To allow landowner full and unencumbered use of property.

North Carolina General Statute 65-104 requires written notice to all next of kin at least 30 days prior to disinterment, removal and reinterment . Attached are copies of notices for this petition. Notices should indicate that next of kin the petitioner within 30 days if they have any objections to the move/

- **THE ATKINSON CEMETERY**

- **Pender County, North Carolina**

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**April 2012**

- **John W. Clauser, Jr.**

- *of grave concerns, inc.*

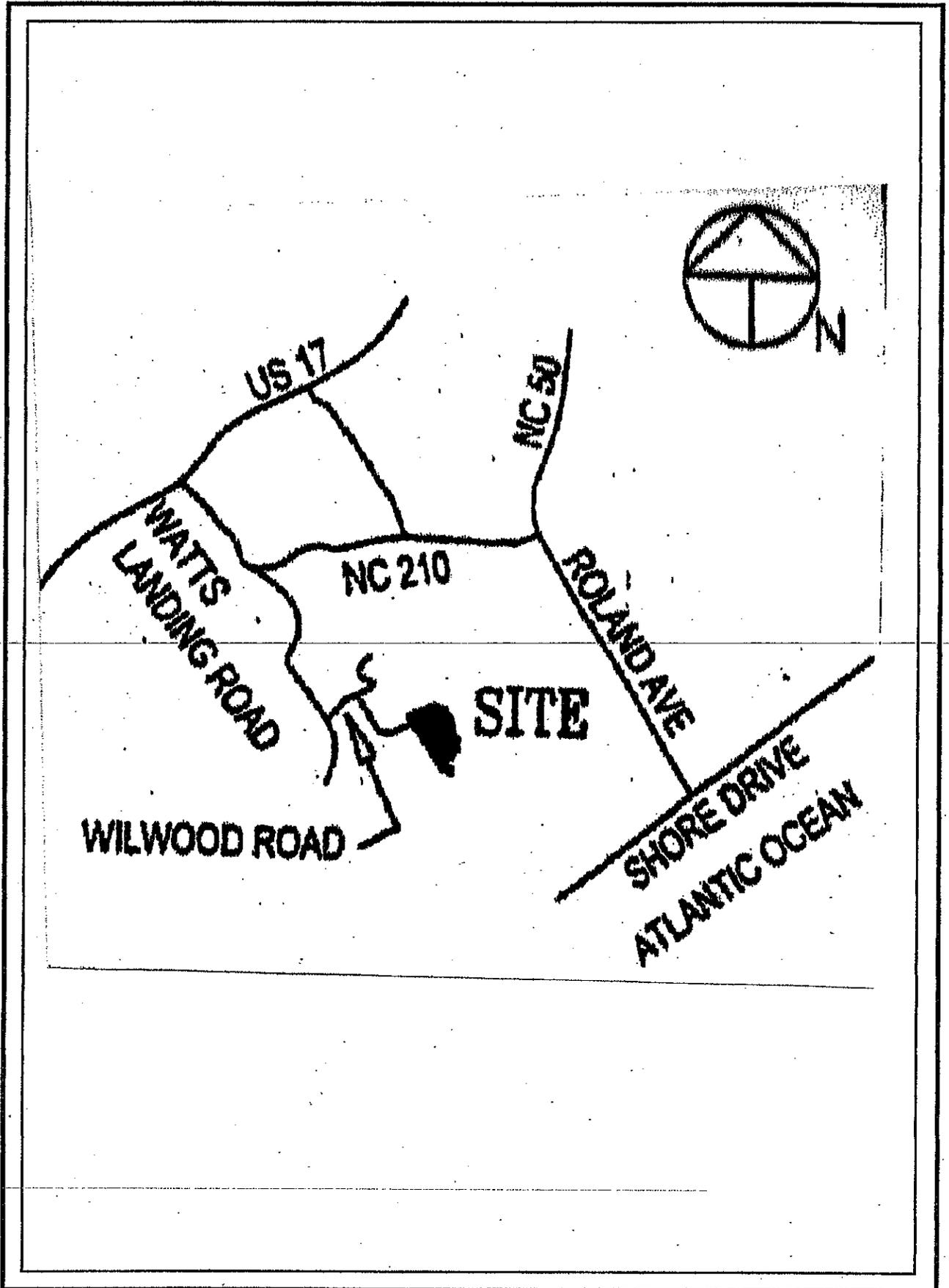
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- 1523 Hanover Street – Raleigh, NC 27608
- Telephone (919) 839 0501

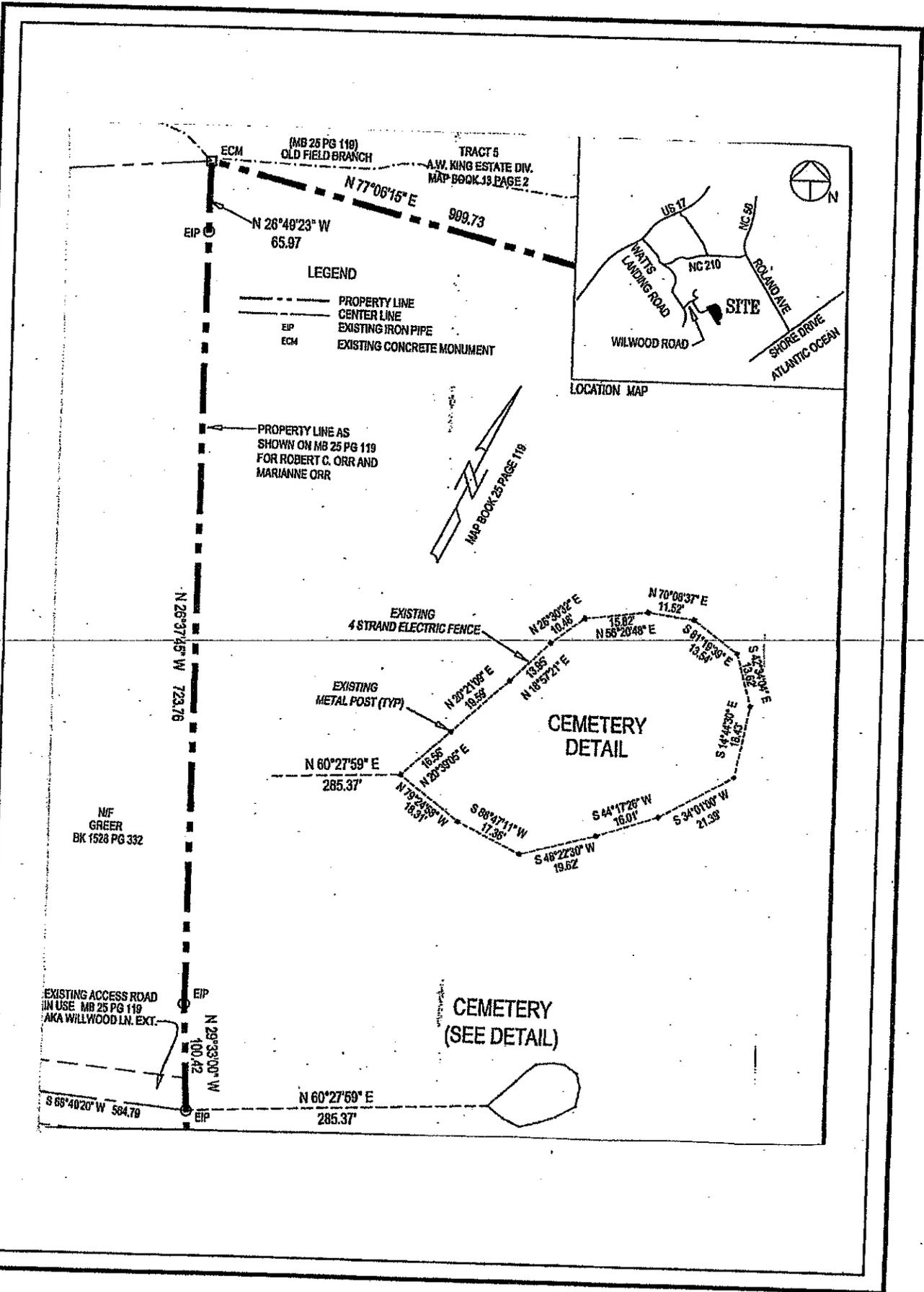
## • INTRODUCTION

- Of Grave Concerns, Inc. was hired to prepare and document information to present to the Pender County Board of Commissioners in preparation for moving the cemetery. The cemetery is located 0.62 miles east of SR1580 and 1.87 miles south of NC 210, on property described in Deed Book 25, Page 119(Figure 1). For purposes of identification and convenience and in accord with previous documentation the cemetery will be referred to as the Atkinson Cemetery. Of Grave Concerns, Inc was contracted to review all the documentary research and perform certain subsurface tests in an attempt to locate the burials.
- Of Grave Concerns is a small archaeological consulting firm specializing in recording and developing preservation plans for cemeteries. The company was formally established in 1999. John W. Clauser Jr., the principal, has a BA in anthropology from Syracuse University, an MA in anthropology from the University of Florida, Gainesville and considerable experience; thirty-five years as an historic archaeologist and twenty years specializing in the treatment of historic cemeteries. He worked for the North Carolina Office of State Archaeology for more than twenty-seven years, performing numerous duties including environmental review, historic sites archaeology and participated in the inception of the North Carolina Cemetery Survey. Over two hundred cemeteries have been located and recorded for a wide range of individuals and agencies including private citizens, four sheriff's departments, county school boards and private developers. Mr. Clauser has served as an expert witness for cemetery cases, in an eminent domain case once and been directly involved with a number of cemetery moves.
- The scope of the current project involves research in preparation of information for treatment of a small family cemetery within a planned development. Services provided include:
  - Perform background research; verify research completed by the descendents
    - and locate cemetery within the property.
  - Field investigation to locate marked and unmarked graves; determine the
    - bounds of the cemetery; perform subsurface tests to verify the location of the graves and record such evidence.
  - Prepare and present appropriate documentation in a written report.

**Figure 1**  
Location



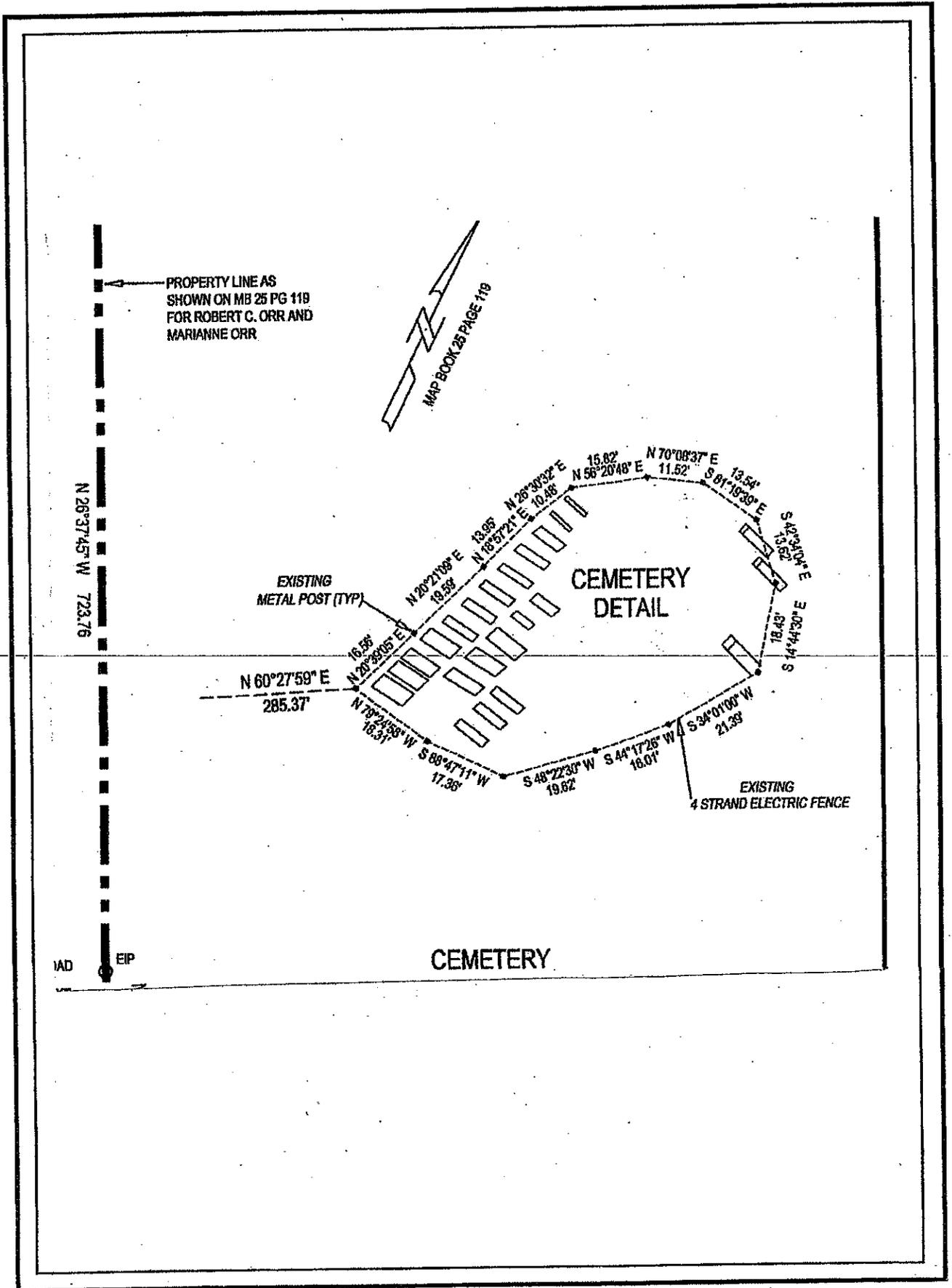
# Figure 2 Cemetery Survey



## • FIELD METHODS

- Standard historic archaeological research methods were used to investigate the cemetery. Site files at the North Carolina Office of State Archaeology and the Cemetery Survey located in the State of North Carolina Archives were checked to determine whether the cemetery had been previously recorded. The Holly Ridge Quadrangle Map and historic maps of the area were checked as well as several cemetery survey compilations. The cemetery had previously been documented by Mr. Tom Sidbury and presented at the web site "Find a Grave."
- Ms Marianne Orr had collected a large amount of information prior to the start of the field investigation, including having the cemetery bounds established by a licensed surveyor (Figure 2). Individuals buried in the cemetery as recorded by Sidbury and corroborated by the current project were: Norma Hall 1924 – 1991; Lawrence 1916 – 1985; Agnes Hall 1906 – 1982; Harvey Hall 1898 – 1948; Emma Atkinson 1865 – 1934; J.D. Andrews 1856 – 1924; R.S. Atkinson 1854 – 1936; Janice Atkinson 1856 – 1921; [...] Atkinson [...]; Roderick Atkinson 1840 – [...]; James Atkinson [...]; Claude Hall 1897 – 1954; Ludwell Hall 1875 – 1953 & Lula Hall 1877 – 1947; Willie Beck 1878 – 1972; [...] Hall 1911 – 1921; [...] H. Beck 1882 – 1920; Robert Bethea 1876 – [...]; Lila Bethea 1867 – 1920; Margaret Bethea; Benjamin Bethea 1836 - - 1916; Dovie Bethea 1870 – 1897; [...] Woolvine 1855 – 1878; John Barlow 1822 – 1893; Jane Barlow 1825 – 1906; [...] 1849 – 1907; Francis King 1926 – 1986 & Norma King 1923 – 2008; A.W. King 1873 – 1933; L.F. King 1836 – 1912; Mary King 1847 – 1929; Edwin King 1875 – 1875; Sarah King 1808 – 1886; Vasta King 1871 – 1926; Emmett Smith [...] – 1931; Jerry Allen 1955 – 1955; Annie King 1872 – 1953; Albert King 1869 – 1941; Infant King 1901 – 1901; Lemola [...]; Gaynelle Stanley 1901 – 1948; Leamon Stanley 1896 – 1976; Robert King infant; Tallman Infant 1926 and Richard Tallman 1884 – 1927.
- An archaeological survey with limited subsurface testing was conducted to determine the area covered by the cemetery and locate as many graves as possible, including unmarked graves. While the field methods utilized do not guarantee locating all the graves present, they represent a reasonable and prudent effort and meet present professional standards for cemetery studies. The only method 100% successful is complete excavation, which is not necessary at this time.
- The cemetery area was visually inspected for surface indications of burials: head and foot markers, visible depressions in the soil and grave mounds for example. Forty Six marked graves and one unmarked graves were located. The area was then probed with a 5/8<sup>th</sup> inch steel rod in an attempt to locate grave pits. Forty six marked graves and two unmarked graves, located within a 50,000 square foot area, were located during the investigation (Figure 3).

**Figure 3**  
Grave Locations



## • HISTORIC SIGNIFICANCE EVALUATION

- The historic significance of the cemetery was next considered. Criteria for the consideration of inclusion of properties in the National Register of Historic Places, and previously published research by the author were used to determine significance. The Atkinson Cemetery is a variation of the Southern Folk Cemetery as described in Clauser 1994. It is a small multi-family. The size of the cemetery, Forty six graves is not unusual. While the cemetery is an excellent example of the Southern Folk Cemetery, it is not a unique example of the cemetery type
- There are four general significance criteria used to determine eligibility for inclusion in the National Register of Historic Places. Properties may be considered for inclusion if they are:
  - associated with events that have made a significant contribution to the broad patterns of our history;
  - associated with the lives of persons significant in our past;
  - embody the distinctive characteristics of a type, period or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components lack individual distinction;
  - or, have yielded or may be likely to yield information important to history or prehistory.
- The cemetery is not eligible for inclusion in the National Register under Criteria A as it is not associated with events that have made a significant contribution to the broad patterns of our history. There is no suggestion that it is associated with the lives of persons significant in our past, therefore Criteria B does not apply. It does not represent the work of a master or possess high artistic values, but it does embody the distinctive characteristics of a type, i.e. the Southern Folk Cemetery. This embodiment, however does not reach the level necessary for inclusion in the National Register of Historic Places. There is a small likelihood for bone preservation sufficient for physical analysis; therefore the cemetery is unlikely to yield information important to history or prehistory.
- Additionally, the cemetery is not eligible for inclusion in the National Register of Historic Places. Cemeteries and gravesites are not generally considered for inclusion in the National Register. "The primary reason for

this restriction is that objective evaluation of cemeteries is easily affected by personal sentiments with which descendants of the interred view graves and cemeteries” (Claudia Brown, Supervisor Survey and Planning Branch, North Carolina Department of Cultural Resources: 1994).

- While the cemetery may not be historically significant, that does not abrogate its importance to the family nor protection under North Carolina General Statutes. The family has the right to visit and maintain the burials as stipulated by GS 65-74 and G.S. 65-75. "A descendant of the interred or any other person with a special interest in the site may do so. He or she must notify the landowner in writing of his or her intent and then may visit periodically during daylight hours only, with the landowner's approval. If such approval cannot be obtained, the descendant may petition the clerk of superior court for an order allowing him or her access. After a special proceeding providing for notice and a hearing, the clerk may issue such an order, if deemed appropriate." Individuals are prohibited from certain actions under G.S. 14-148 and G.S. 14-149. They are prohibited from defacing and desecrating gravesites and from plowing over or covering up graves. These citations do not represent all protection provided by law, but simply highlight some of the obligations and privileges attached to the presence of burials on a property.

#### • PLANNING OPTIONS

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- Decisions involving a cemetery should not be taken lightly, but should be approached with a great deal of caution. There is a natural reluctance to disturb burial places, no matter what the reason. Therefore a number of alternatives should be considered.
  - Several development options involving the Atkinson Cemetery were considered. The first option was preservation in place. This has the advantage of no moving cost and the preservation of an historic feature *in situ*.
  - The second option was moving the cemetery to another area of the property. There is no area suitable for location of a cemetery. There would be no guarantee of continued care for the graves. The action is probably not acceptable to either party to the situation. The cemetery would have been removed from its context without any benefit.
  - The last option considered was moving the cemetery off site. The burials would be moved to an established cemetery under the provisions of North Carolina General Statute 65 -4.
  - In summary, the historic significance of the cemetery has been considered the desirability of perpetual care and the needs of the landowner. Several options for

treating the cemetery have been evaluated: preservation in place, moving to another area of the property and moving off site to an established cemetery.

The Cemetery should be moved under NCGS 65-106 (§ 65-106. Removal of graves; who may disinter, move, and reinter; notice; certificate filed; reinterment expenses; due care required.) should removal and reinterment of the graves be chosen. The statute states that such a removal may be initiated by the land owners: Robert and Marianne Orr.

65-106:4

(4) By any person, firm, or corporation who owns land on which an abandoned cemetery is located after first securing the consent of the governing body of the municipality or county in which the abandoned cemetery is located.

A proposal for the consent of the governing body will be requested at a regular meeting of the County Board of Commissioners

65-106:b

The party effecting the disinterment, removal, and reinterment of a grave containing a decedent's remains under the provisions of this Part shall, before disinterment, give 30 days' written notice of such intention to the next of kin of the decedent, if known or subject to being ascertained by reasonable search and inquiry, and shall cause notice of such disinterment, removal, and reinterment to be published at least once per week for four successive weeks in a newspaper of general circulation in the county where such grave is located, and the first publication shall be not less than 30 days before disinterment. Any remains disinterred and removed hereunder shall be reinterred in a suitable cemetery.

The reasonable and prudent effort to contact next of kin is provided by posting a legal notice in the Wilmington Star once a week for four consecutive weeks: 3/3, 3/10, 3/17, 3/24 and descendent interviews. While there was a reasonable return of comments, it was not as large as might be expected. Nearly every respondent stated that they would send names and contact information, but none actually did.

Respondents included:

Mr. Arthur King 132 Old Savannah Drive Morrisville, NC 27560	by letter	opposed
Elaine Needham 680 NC Highway 210 E Hampstead, NC 28443	by letter	opposed
Mr. & Mrs. Jimmy Batson 262 Salt House Rd Hampstead, NC 28443	by phone	opposed
Marion Andrews 121 Briercrest Dr. Wilmington NC 28405	by phone	may be opposed
Martha Hines 270 Tar Landing Rd. Holly Ridge, NC 28445	by phone	opposed
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Thomas Atkinson	by phone	opposed
E. Dan James 668 Watts Landing Rd. Hampstead NC 28443	by letter	opposed
Lucy James 3929 Sweetbriar Rd. Wilmington, NC 28403	by letter	opposed
Mr. Robert King	by phone	opposed
Tommy & Carla Hall 16 Shelly Road Hampstead, NC 28443		opposed
Virginia & Floyd Hall 1510 Sand Bar Road Wilmington, NC 28409	by letter	opposed

Marie S. Hall  
Thomas E. Hall  
Thomas I Hall  
Johnny D. Hall  
Robert M. Hall  
650 Peanut Road  
Hampstead, NC 28443

by letter                      opposed

Ghrahm Newman  
7 Campbell Circle  
Asheville, NC 28803

by letter                      opposed

June M. Newman  
200 Pinecrest Parkway  
Wilmington, NC 28401

by letter                      opposed

Tuck Atkinson  
919 818 3674

by phone                      opposed

Francis Presley  
919 469 9001

by phone                      Agree

John Atkinson  
3886-717-9560

by phone                      opposed

Elizabeth Maples  
4804 South College Road  
Unit 16  
Wilmington NC 28412

by letter                      opposed

John [ ... ]  
440 Cooked Creek Dr.  
Hampstead, NC 28443

by letter                      opposed

Olivia Wilson Hall  
[Dhall9@ec.rr.com](mailto:Dhall9@ec.rr.com)

by email                      opposed

Fred K. Thompson  
5013 Sand Ridge Road  
New Bern, NC 28560

by letter                      opposed

Tom Sidbury  
[dsidbury@comcast.net](mailto:dsidbury@comcast.net)

by email                      Agree

The following requirements will be followed during the move. Actual removal and reinterment will be performed by R. Ward Sutton, a licensed funeral director

(c) The party removing or causing the removal of all such graves shall, within 30 days after completion of the removal and reinterment, file with the register of deeds of the county from which the graves were removed and with the register of deeds of the county in which reinterment is made, a written certificate of the removal facts. Such certificate shall contain the full name, if known or reasonably ascertainable, of each decedent whose grave is moved, a precise description of the site from which such grave was removed, a precise description of the site and specific location where the decedent's remains have been reinterred, the full and correct name of the party effecting the removal, and a brief description of the statutory basis or bases upon which such removal or reinterment was effected. If the full name of any decedent cannot reasonably be ascertained, the removing party shall set forth all additional reasonably ascertainable facts about the decedent including birth date, death date, and family name.

The fee for recording instruments in general, as provided in G.S. 161-10(a)(1), for registering a certificate of removal facts shall be paid to the register of deeds of each county in which such certificate is filed for registration.

~~(d) All expenses of disinterment, removal, and acquisition of the new burial site and reinterment shall be borne by the party effecting such disinterment, removal, and reinterment, including the actual reasonable expense of one of the next of kin incurred in attending the same, not to exceed the sum of two hundred dollars (\$200.00).~~

(e) The Office of Vital Records of North Carolina shall promulgate regulations affecting the registration and indexing of the written certificate of the removal facts, including the form of that certificate.

(f) The party effecting the disinterment, removal, and reinterment of a decedent's remains under the provisions of this Part shall ensure that the site in which reinterment is accomplished shall be of such suitable dimensions to accommodate the remains of that decedent only and that such site shall be reasonably accessible to all relatives of that decedent, provided that the remains may be reinterred in a common grave where written consent is obtained from the next of kin. If under the authority of this Part, disinterment, removal, and reinterment are effected by the State of North Carolina or any of its agencies, public institutions, or political subdivisions, the United States of America or any agency thereof, any electric power or lighting company, then such disinterment, removal, and reinterment shall be performed by a funeral director duly licensed as a "funeral director" or a "funeral service licensee" under the provisions of Article 13A of Chapter 90 of the General Statutes.

(g) All disinterment, removal, and reinterment under the provisions of this Part shall be made under the supervision and direction of the county board of commissioners or other appropriate official, including the local health director, appointed by such board for the county where the disinterment, removal, and reinterment take place. If reinterment is effected in a county different from the county of disinterment with the consent of the next of kin of the deceased whose remains are disinterred, then the disinterment and removal shall be made under the supervision and direction of the county board of commissioners

#### Part 4. Removal of Graves.

§ 65-106. Removal of graves; who may disinter, move, and reinter; notice; certificate filed; reinterment expenses; due care required.

(a) The State of North Carolina and any of its agencies, public institutions, or political subdivisions, the United States of America or any agency thereof, any church, electric power or lighting company, or any person, firm, or corporation may effect the disinterment, removal, and reinterment of graves as follows:

(1) By the State of North Carolina or any of its agencies, public institutions, or political subdivisions, the United States of America or any agency thereof, when it shall determine and certify to the board of county commissioners in the county from which the bodies are to be disinterred that such removal is reasonably necessary to perform its governmental functions and the duties delegated to it by law.

(2) By any church authority in order to erect a new church, parish house, parsonage, or any other facility owned and operated exclusively by such church; in order to expand or enlarge an existing church facility; or better to care for and maintain graves not located in a regular cemetery for which such church has assumed responsibility of care and custody.

(3) By an electric power or lighting company when it owns land on which graves are located, and the land is to be used as a reservoir.

(4) By any person, firm, or corporation who owns land on which an abandoned cemetery is located after first securing the consent of the governing body of the municipality or county in which the abandoned cemetery is located.

(b) The party effecting the disinterment, removal, and reinterment of a grave containing a decedent's remains under the provisions of this Part shall, before disinterment, give 30 days' written notice of such intention to the next of kin of the decedent, if known or subject to being ascertained by reasonable search and inquiry, and shall cause notice of such disinterment, removal, and reinterment to be published at least once per week for four successive weeks in a newspaper of general circulation in the county where such grave is located, and the first publication shall be not less than 30 days before disinterment. Any remains disinterred and removed hereunder shall be reinterred in a suitable cemetery.

(c) The party removing or causing the removal of all such graves shall, within 30 days after completion of the removal and reinterment, file with the register of deeds of the county from which the graves were removed and with the register of deeds of the county in which reinterment is made, a written certificate of the removal facts. Such certificate shall contain the full name, if known or reasonably ascertainable, of each decedent whose grave is moved, a precise description of the site from which such grave was removed, a precise description of the site and specific location where the decedent's remains have been reinterred, the full and correct name of the party effecting the removal, and a brief description of the statutory basis or bases upon which such removal or reinterment was effected. If the full name of any decedent cannot reasonably be ascertained, the removing party shall set forth all additional reasonably ascertainable facts about the decedent including birth date, death date, and family name.

The fee for recording instruments in general, as provided in G.S. 161-10(a)(1), for registering a certificate of removal facts shall be paid to the register of deeds of each county in which such certificate is filed for registration.

(d) All expenses of disinterment, removal, and acquisition of the new burial site and reinterment shall be borne by the party effecting such disinterment, removal, and reinterment, including the actual reasonable expense of one of the next of kin incurred in attending the same, not to exceed the sum of two hundred dollars (\$200.00).

(e) The Office of Vital Records of North Carolina shall promulgate regulations affecting the registration and indexing of the written certificate of the removal facts, including the form of that certificate.

(f) The party effecting the disinterment, removal, and reinterment of a decedent's remains under the provisions of this Part shall ensure that the site in which reinterment is accomplished shall be of such suitable dimensions to accommodate the remains of that decedent only and that such site shall be reasonably accessible to all relatives of that decedent, provided that the remains may be reinterred in a common grave where written consent is obtained from the next of kin. If under the authority of this Part, disinterment, removal, and reinterment are effected by the State of North Carolina or any of its agencies, public institutions, or political subdivisions, the United States of America or any agency thereof, any electric power or lighting company, then such disinterment, removal, and reinterment shall be performed by a funeral director duly licensed as a "funeral director" or a "funeral service licensee" under the provisions of Article 13A of Chapter 90 of the General Statutes.

(g) All disinterment, removal, and reinterment under the provisions of this Part shall be made under the supervision and direction of the county board of commissioners or other appropriate official, including the local health director, appointed by such board for the county where the disinterment, removal, and reinterment take place. If reinterment is effected in a county different from the county of disinterment with the consent of the next of kin of the deceased whose remains are disinterred, then the disinterment and removal shall be made under the supervision and direction of the county board of commissioners

or other appropriate official, including the local health director, appointed by such board for the county of the disinterment, and the reinterment shall be made under the supervision and direction of the county board of commissioners or other appropriate official, including the local health director, appointed by such board for the county of reinterment.

Due care shall be taken to do said work in a proper and decent manner, and, if necessary, to furnish suitable coffins or boxes for reintering such remains. Due care shall also be taken to remove, protect, and replace all tombstones or other markers, so as to leave such tombstones or other markers in as good condition as that prior to disinterment. Provided that in cases where the remains are to be moved to a perpetual care cemetery or other cemetery where upright tombstones are not permitted, a suitable replacement marker shall be provided.

(h) Nothing contained in this Part shall be construed to grant or confer the power or authority of eminent domain, or to impair the right of the next of kin of a decedent to remove or cause the removal, at his or their expense, of the remains or grave of such decedent. (1919, c. 245; C.S., ss. 5030, 5030(a); Ex. Sess. 1920, c. 46; 1927, c. 23, s. 1; c. 175, s. 1; 1937, c. 3; 1947, cc. 168, 576; 1961, c. 457; 1963, c. 915, s. 1; 1965, c. 71; 1971, c. 797, s. 1; 1977, c. 311, s. 1; 2001-390, s. 3; 2007-118, s. 1.)

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