

REQUEST FOR BOARD ACTION

HENDERSON COUNTY

BOARD OF COMMISSIONERS

MEETING DATE: 18 October 2006

SUBJECT: Application for county control of an abandoned public cemetery
(lower section, Mill Pond Cemetery)

ATTACHMENT(S): (1) Application as received (lower section, Mill Pond Cemetery)
(2) Survey of lower section, Mill Pond Cemetery

SUMMARY OF REQUEST:

Henderson County has received an application from Jay Jackson, Chair of the Henderson County Cemetery Advisory Committee, for Henderson County to assume possession and control of an abandoned public cemetery. The cemetery is described in the attached survey, with Henderson County PIN 0096409780045, and is known as "lower section, Mill Pond Cemetery".

Under your ordinance:

- 1) The Board must "assume possession and control" of all abandoned public cemeteries. (Code §76-6)
- 2) "An abandoned cemetery is a cemetery for which there is no ascertainable person or entity responsible for maintenance and care, and which has not actually been maintained or cared for so that it has fallen into a state of disrepair as evidenced by overgrown foliage, broken grave markers, loss of grave identity, or such other circumstances indicating neglect or abandonment." (§76-4(a))
- 3) "A public cemetery is a cemetery that:
 - (1) Is or was last owned or controlled by a public body without any relinquishment of ownership or control by said public body; or
 - (2) Has been (i) dedicated for use by the public generally by an express or implied dedication, and (ii) accepted by the public expressly by an act of a public body or impliedly by the actual use of the cemetery by the general public." (§76-4(c))

The only substantial issue identified by staff as a concern with this application is the location of the boundaries of the "lower section, Mill Pond Cemetery". As under §76-6, the Board is responsible to insure that the cemetery "boundaries and lines are clearly laid out, defined and marked, and shall take proper steps to preserve them from encroachment", the location of these boundaries is required information. This is especially true as the remainder of Mill Pond Cemetery is well cared for, and clearly not an abandoned cemetery of any sort.

SUGGESTED MOTION:

If the Board is so inclined, the following motion is suggested:

I move that the Board assume and exercise possession and control of the lower section of Mill Pond Cemetery as surveyed as an abandoned public cemetery pursuant to Chapter 76 of the Henderson County Code.

PLAT OF SURVEY FOR
 HENDERSON COUNTY
 SHOWING THE ABANDONED SECTION OF
 THE MILL POND CEMETERY AREA

HENDERSONVILLE TOWNSHIP
 HENDERSON COUNTY
 NORTH CAROLINA
 SEPTEMBER 20th, 2006

CALL TABLE

COURSE	BEARING	DISTANCE
1	S 50°15'08"E	13.70'
2	S 42°17'12"E	63.65'
3	S 42°00'00"E	78.89'
4	S 42°00'00"E	78.89'
5	S 42°15'36"E	43.27'
6	S 42°15'36"E	43.27'
7	S 55°00'00"W	52.66'
8	S 88°58'56"W	17.91'
9	S 88°58'56"W	19.38'
10	N 82°01'22"W	19.38'
11	N 76°53'55"W	26.12'
12	N 76°53'55"W	26.12'
13	N 77°34'48"W	56.40'

THIS SURVEY WAS MADE BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND TO THE BEST OF MY KNOWLEDGE AND BELIEF IT COMES IN ACCORDANCE WITH THE REQUIREMENTS OF THE STATUTES OF THE STATE OF NORTH CAROLINA.

Surveyed by
 Stacy Kent Rhodes



LAND SURVEYING - PROFESSIONAL AND SURVEYOR
 Stacy Kent Rhodes, a professional and surveyor
 for the State of North Carolina, License No. 10000,
 hereby certifies that this plat was prepared and
 filed in accordance with the provisions of the
 laws of the State of North Carolina, and that
 the work of preparation of this plat was
 done by him or under his direct supervision
 and that he is a duly licensed professional
 surveyor for the State of North Carolina.
 Stacy Kent Rhodes, S.S., P.E.
 Hendersonville, North Carolina

Under Order of Henderson County
 Clerk
 This plat was filed for record on this date
 and is subject to the provisions of the
 laws of the State of North Carolina.

STACY KENT RHODES, a professional and surveyor
 for the State of North Carolina, License No. 10000,
 hereby certifies that this plat was prepared and
 filed in accordance with the provisions of the
 laws of the State of North Carolina, and that
 the work of preparation of this plat was
 done by him or under his direct supervision
 and that he is a duly licensed professional
 surveyor for the State of North Carolina.

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 and that he is a duly licensed professional
 surveyor for the State of North Carolina.



DATE: SEPTEMBER 20th, 2006 DRAWN BY: S.K.R. JOB NUMBER: 05 092

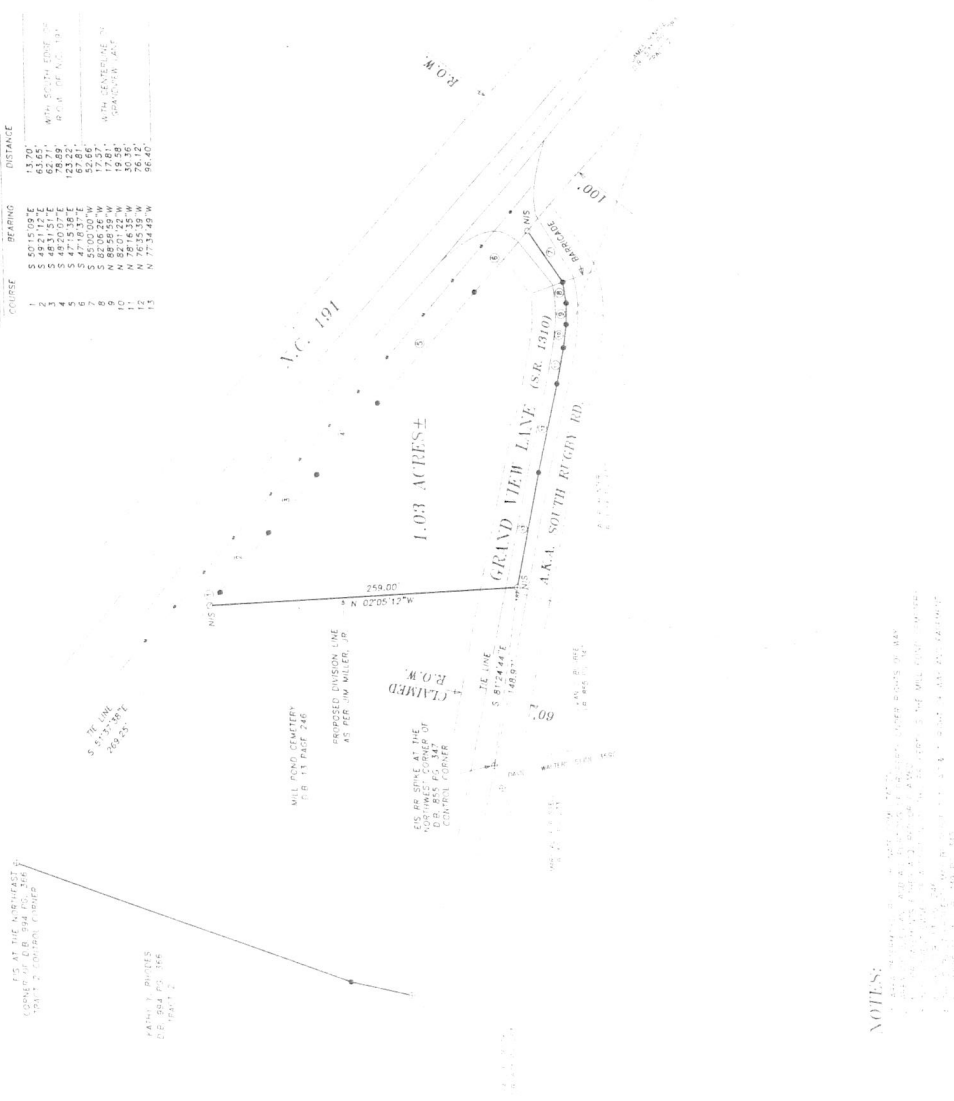
STACY KENT RHODES
 WAGGONER & RHODES
 344 WEST HARRISBURG RD
 HENDERSONVILLE, NC 28635
 TEL: 828.438.1022 FAX: 828.438.1013

SURVEY BY
 STACY KENT RHODES
 NC PLS 2009

RECORDS SECTION
 94-4-97-1004
 COMPLETION DATE: 09/20/06
 INSTRUMENT NO.: 13-2

FILE NO.: 13-2-1004
 SHEET NO.: 1 OF 1

PLAT NORTH
 PLAT SLIDE 3590



NOTES:
 1. ALL DISTANCES ARE IN FEET AND DECIMALS THEREOF.
 2. ALL BEARINGS ARE TRUE BEARINGS UNLESS OTHERWISE NOTED.
 3. THE SURVEY WAS MADE BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND TO THE BEST OF MY KNOWLEDGE AND BELIEF IT COMES IN ACCORDANCE WITH THE REQUIREMENTS OF THE STATUTES OF THE STATE OF NORTH CAROLINA.
 4. THIS SURVEY WAS MADE BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND TO THE BEST OF MY KNOWLEDGE AND BELIEF IT COMES IN ACCORDANCE WITH THE REQUIREMENTS OF THE STATUTES OF THE STATE OF NORTH CAROLINA.
 5. THIS SURVEY WAS MADE BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND TO THE BEST OF MY KNOWLEDGE AND BELIEF IT COMES IN ACCORDANCE WITH THE REQUIREMENTS OF THE STATUTES OF THE STATE OF NORTH CAROLINA.

- EXISTING CORNER MONUMENT
- NEW CORNER MONUMENT
- AS NOTED
- COMPUTED POINT AND BEARING
- AS NOTED