

## 828 MLK Property

February 25, 2022

### ***Introduction***

The coal ash used as fill beneath the 828 MLK Property has raised a series of legitimate concerns and questions about the safety of current and future site use. This Q&A fact sheet is intended to help with our community's decision making by answering questions that have come up during public meetings and planning sessions with Chapel Hill's Town Council and other stakeholders.

An overriding consideration for our community, regardless of the future use, is to ensure that the Property will be managed in a manner that is protective of the Bolin Creek ecosystem and safe for people that might live, work or visit the Property.

Further information, including copies of the various site investigations and assessments for the Property, can be found at: <https://www.townofchapelhill.org/residents/community-sustainability/coal-ash-disposal-site-remediation-project> and <https://www.futureof828.org/>.

### ***What is coal ash?***

Coal ash, also called coal combustion products (CCP) or coal combustion residuals (CCR), is a by-product when coal is burned in a coal-fired power plant. It is predominantly silica, and can include fine particles, as well as larger pieces of slag.

### ***Why is coal ash a concern?***

Coal ash is a concern because if it is uncovered, the fine ash particles can pose a respiratory risk if inhaled. Coal ash also contains heavy metals, such as thallium, arsenic, manganese and mercury, that can cause health and environmental concerns as a result of direct exposure to it.

### ***What is the history of the 828 MLK property?***

Before the current police headquarters was built in 1980, the 828 MLK Property was a sand and gravel borrow pit in the 1950s/1960s and then backfilled with construction debris (such as concrete), fill soil, and coal ash in the 1960s/1970s. This practice was common and coal ash was widely used at hundreds of locations in North Carolina as structural fill under roads and buildings and to fill topographic depressions, former mines, and quarries because it was easy to use, had good structural support properties, widely available, low cost, and, historically, considered to be relatively benign.

### ***What rules apply to coal ash fill?***

Historically coal ash when used as fill was unregulated. Coal ash can still be used as structural fill today provided certain conditions are met and permits are obtained from the State.<sup>1</sup>

---

<sup>1</sup> In 2014, NC enacted the Coal Ash Management Act (CAMA), the country's first state-level coal ash law for electric utilities – CAMA required cleanup of utility coal ash ponds and impoundments. Environmental advocates, including the Southern Environmental Law Center, led successful court cases that resulted in Duke Energy and other utility companies being compelled to clean up their ash ponds and impoundments located throughout the Southeast.

***Is dry coal ash used historically as fill different than the wet ash slurry found at utility ponds and impoundments?***

Yes, the situation at the 828 MLK Property should not be seen in the same light as the catastrophic spill at the Duke Energy facility in Eden, NC in 2014, where millions of gallons of coal ash slurry were released into the Dan River, or the groundwater contamination that has been identified at ponds and impoundments at Duke Energy and other utility facilities throughout the US. Because of the presence of water in coal ash ponds, there is a significant potential for leaching of metals into groundwater which is different than the dry coal ash placed in structural fill sites such as the 828 MLK Property, which is one of hundreds of old upland fill sites in the State. That is not to say the coal ash at the 828 MLK property poses no issues, it does, but those issues can be properly and safely addressed.

***What steps has Chapel Hill taken to address the coal ash at the 828 MLK property?***

Starting in 2013, when coal ash was first found, the Town reported the situation to the North Carolina Department of Environmental Quality (DEQ) and began sponsoring a series of in-depth site investigations and risk assessments. In 2020, the Town conducted an interim cleanup to eliminate the immediate hazards by removing 1,000 tons of coal ash and soil along Bolin Creek Trail and providing erosion resistance to the steep site embankment.

***What is the situation today and what are the concerns?***

Today the coal ash is almost completely covered by the police station, parking lots and soil, with the exception of just a few small areas of uncovered ash remaining along the steep site embankment. The Town's environmental consultants have concluded because the ash is almost completely buried and covered, it poses **no** unacceptable risks today to our police officers, to people visiting the police station or using the Bolin Creek Trail, or to the Bolin Creek ecosystem. The only risks identified were purely hypothetical if, in the future, a person repeatedly came in contact with the few remaining areas of exposed ash.

***What steps will be taken going forward to ensure the site remains safe?***

Regardless of future use, going forward, the Town intends to enter into a Brownfields Agreement with DEQ. This ensures DEQ's close supervision and approvals. The risk of contact with coal ash can be addressed, for example, by constructing a retaining wall along the creek and, depending on future site use, containing and covering the coal ash with a combination of building footprints, parking and clean fill. Stormwater runoff will be improved to minimize impacts to groundwater and Bolin Creek. In simple terms, when exposure is addressed, so is risk. This approach is common and customary for historical coal ash fill sites.

***Could the coal ash be removed?***

Technically, yes, but as a practical matter, no, due to considerable safety and environmental concerns, timing and prohibitive costs. The complete removal of coal ash, disposal in a permitted offsite landfill and site restoration is estimated to cost from \$13 to \$16 million and would take three or more years to complete. The removal option, if implemented, could result in significant short-term environmental impacts, including risk of exposure to coal ash to Bolin Creek and the community during excavation and on the order of 5,000 truck trips to and from the nearest suitable landfill located 40 miles from Chapel Hill.

***What other safeguards are provided by the Brownfields Agreement?***

The state Brownfields Program was started in 1997. It authorizes DEQ to work with non-responsible parties, in this case the Town of Chapel Hill, which did not cause or contribute to site contamination, to promote the safe use of urban infill properties, old industrial sites, and other types of environmentally impaired real estate. In North

Carolina, to date, approximately 650 brownfields agreements have been recorded and another 250 sites, like the 828 MLK property, are enrolled to obtain an agreement. In greater Chapel Hill/Carrboro, brownfields sites include the Wegmans grocery store built at the former Performance Auto site, new apartments where the Crown Honda dealership was located along Fordham Blvd, and the future redevelopment of University Mall.

The Brownfields Agreement for the 828 MLK property will include a comprehensive framework to help ensure the site remains safe – this includes deeded perpetual land use restrictions and required regular monitoring, care and maintenance of the site. The agreement also prohibits groundwater use and unsupervised ground disturbance or construction activities and requires an annual DEQ compliance certification. If anything changes that may increase the risk to public health or the environment, or new information about site conditions or a contaminant is revealed, additional steps are built into the Brownfields Agreement framework to require further action.