

STATEMENT OF CATHARINE GILLIAM BURNS WITH RESPECT TO THE APPLICATION FOR A CERTIFICATE OF APPROPRIATENESS FOR 306 N. BOUNDARY STREET: SUMMARY OF SIGNIFICANCE OF THE WILLIAM C. COKER ESTATE TO FRANKLIN-ROSEMARY (CHAPEL HILL) HISTORIC DISTRICT AND EVALUATION OF CONGRUENCY OF THE PROPOSED CHANGES WITH THE SPECIAL CHARACTER OF THE DISTRICT

**INTRODUCTION & BACKGROUND:**

I have testified at both the January and February 2019 hearings on this application. My testimony in January did not address the substance of the proposal. As I stated and requested, the application had not come close to meeting the Commission’s requirements for public notice and – consequently – I had not had time to review the application and record thoroughly and did not expect the Commission to proceed. The applicants changed their application somewhat for the February presentation. Although I continued to protest with respect to inadequate notice and improper procedures, my February testimony focused on outlining a review of the application that meets the requirements of the law. I emphasized the necessity to study the *Chapel Hill Historic District Significance Report* (the essential 1976 report for what is now named the Franklin-Rosemary Historic District) as it relates to the subject property. I also – relying on, citing and providing copies of Adam Lovelady’s (UNC SOG) article: “What is the ‘Special Character’ of the Historic District?” – briefly recommended how the Commission should go about applying your adopted *Design Guidelines for the Chapel Hill Historic Districts*) to determine whether a Certificate of Appropriateness can be granted.

I offer this evaluation of the evidence and representations in the current version of the application 18-130, 306 North Boundary Street. My assumption is that all participating Commissioners have read my testimony submitted at the January and February hearings. This report is supplementary to my earlier statements and analysis.

**QUALIFICATIONS:**

NC Law covering Quasi-Judicial Hearings allows parties to call expert witnesses. This report is based on my education and experience in the field of architectural history and historic preservation. [see Owens & Lovelady, Quasi-Judicial Handbook, pp. 40-41]. I have previously submitted a brief statement of my relevant qualifications and attach an updated version (minor additions relevant to garden history and design). I request a ruling on whether I am accepted by the Commission as an expert in this field.

**HOW DOES THE WILLIAM C. COKER ESTATE REPRESENT THE SPECIAL CHARACTER OF THE DISTRICT?**

The entire 4.1 acres of the historic William C. Coker estate is an important part of the Franklin-Rosemary Historic District. While the 19<sup>th</sup> century and earlier buildings in the district help define the character and are important in understanding how Coker shaped the development of the district in the 20<sup>th</sup> century, it is the remaining, historic core of the 40-60 acre lands that Coker owned and used that provides a tangible link to his influence in shaping the campus, the district and the UNC campus. They are far more useful than archives and books describing these influences. They are a physical landscape manifestation of Coker’s influence and interests. While a walk through Coker Arboretum provides one place Coker’s legacy can be

experienced, the benefits of being in the landscape, the gardens, the home and other buildings that he designed is – in the words of the authoritative Significance Report – “irreplaceable.” The boundaries of the district were selected in order to provide a buffer for this 4.1 acres.

The spectrum of significant landscape and garden features represented in the 4.1 acre core is remarkable. Coker was a genius of diverse talents and interests. Nowhere is this more clear than exploring his ‘homeplace.’ William C. Coker was:

- Botanist
- Horticulturalist
- Landscape Designer
- Architect
- Founder of the UNC Herbarium
- Teacher
- Land/Community/Neighborhood Planner.

The relationship between William C. Coker and John Nolen is extremely important to analyzing the character of this landscape. Nolen was a landscape architect who is considered the first community and neighborhood planner in America. He is also considered the successor to the most influential 19<sup>th</sup> c. landscape planner Frederick Law Olmstead, who designed an astounding number of America’s most important historic landscapes. A recent biography of Noland examines his “*work as a model of a sustainable vision relevant to American civic culture today.*” Nolen and Coker worked closely over several years when the University of North Carolina hired Nolan to develop a campus plan and Dr. Coker oversaw his work as the director of campus planning. Their mutual respect and what they learned from each other can be seen in the preserved landscape of the Coker estate.

The William C. Coker Estate, includes within the 4+ acres:

- Lawn
- Sunken Garden\*
- Camellia Rooms
- Mrs. Coker’s cutting garden
- The Promenade\*
- The Rocks geological area
- Arboretum of trees and shrubs
- Historic holly trees\*

*\*Asterisk indicates features located on the 1.3 acre Lee/Peacock/Cumbie-French Parcel*

All of these features contribute to a greater whole. The relationship between these elements enhances the importance of each – and the whole. This landscape features are inextricably linked because they show the relationships of diverse elements and interests – and the mind and influence of the man who created them. Collectively, they are the important cultural landscape that the 1976 Significance Report recognized as essential to the character to be protected. This is a strong example – in a physical landscape – of the whole being far greater than the sum of the parts.

**WHAT ARE THE CHARACTERISTICS AND FEATURES OF THIS PARTICULAR PARCEL THAT ARE AT RISK OF LOSS OR DIMINISHMENT OF CHARACTER BY THE PROPOSED EXPANSION AND CONSTRUCTION?**

Understanding that the whole landscape is what matters most, it is critical for the Commission to zoom in to look at the location of the proposed work and analyze its impact. The sunken garden – or designed, formal garden [I would describe it as a Baroque garden plan] of geometric elements, strong axis lines and created a defined space is essential. Understanding what this relationship represents and ensuring that the impact of any construction is minimized and respectful of the past design is required.

The original plan from the 1920s – which is included prominently in David Swanson’s analysis in the early 1990s and in the recent, quickly completed report he did since this application was initially filed – shows that the sunken garden was geometric, including 3 distinct squares forming a parterre garden. The axis of the paths linking the parterres is strong, but interesting and reflects a sophisticated understanding of the power of garden design in creating beauty.

Unfortunately, in my view, the 1991 house was built to be located on the westernmost parterre – obliterating that part of this feature. But that is now part of the history of the landscape and the property. Interestingly, an aerial view – showing just the roof of the 1991 Indonesian-inspired house makes very clear the original design of the garden. The objective of future work should be to be protective of what remains of the original garden and not falsely create an historical impression. The impact of the proposal is for the Commission to decide. But you can only do so if you look carefully at what the original, historic features a

The Peacocks in 1991 undertook to restore the Coker design – while, of course, inserted a large, modernist house on a key portion. A 2017 cover story in Chapel Hill Magazine, states:

*“But the couple knew the property had once been owned by the late William C. Coker, a UNC professor of botany and founder of the Coker Arboretum, and they sought to recreate his original landscape design as well as build a home with the help of modernist architect Dail Dixon. By 1992, both projects were complete, and the family has reaped the benefits of the garden’s wonder. . . . ever since.”* Chapel Hill Magazine, May/June 2017, page 50 – copy attached

To the extent that the applicant’s team argued or implied in the February meeting that this was a modern feature of the landscape and is dispensable because of clearing to install David Swanson’s plan changed the original, the Commission should not accept that argument. While it might not be a fully restored garden of the 1920s, no further action to diminish the integrity of this landscape would be justified under your guidelines.

The other critical features to protect are the rock Chapel Hill walls so clearly indicated on the 1920s plan – and the Promenade.

I was struck by 2 similar descriptions of Dr. Coker’s home landscape – although they were from almost 100 years apart. These quotes illustrate the enduring power of an important landscape:

***2/15/19 email from a neighbor explaining to me how to see what is referred to as The Promenade:***

*If you haven't seen it before, I predict you'll be thrilled by the lovely and spacious "promenade" you'll see before you along the northern border of the property. It's a gem, I think. It always reminds me of an elegant old English park, but better -- because it's here.*

### My 2/16/19 email reply:

After I saw this beautiful feature I was rereading a book about Dr. Coker and his work. Here's a passage that reminded me of your observation:

*".....One of his (Coker's) former students (Paul Titman of Chicago) remembered the comment of an English visitor whom he accompanied on a stroll around the Coker home — that she had at last seen in the United States an English garden.....".* Mary Coker Joslin, Essays on William Chambers Coker, Passionate Botanist, page 116

Worthy of note is the relationship of these features to the famous experimental holly trees. But, as stated repeatedly, these are merely highlights of a whole landscape that is best understood as the relationship of distinct elements.

### HOW DOES THE PROPOSED PROJECT COMPLY OR NOT WITH THE DESIGN GUIDELINES FOR THE CHAPEL HILL HISTORIC DISTRICTS?

In this portion I will elaborate on the opinion in my February written testimony regarding the Application of Design Guidelines to the updated proposal:

1. The duly adopted Design Guidelines make clear at page 5 that the national Secretary of the Interior's Standards and Guidelines "...provide guidance to the Chapel Hill Historic District Commission, and similar commissions across the country, in their deliberations. **The Chapel Hill Historic District Design Guidelines are locally tailored design guidelines based on these national standards and they reflect the same philosophical approach to rehabilitation.**" There is much that could benefit the Commission in how to analyze this unique case by studying the Secretary's Standards and their successful application over many decades throughout the United States. Of particular interest would be the more recently developed and adopted *Guidelines for the Treatment of Cultural Landscapes* <https://www.nps.gov/tps/standards/four-treatments/landscape-guidelines/index.htm>. These Guidelines would encourage greater respect for the historic features of the landscape. The Commission should focus on the footprint that the proposals will make rather than the impact on the 1991 house. My concern is that the eastern extension of the existing house will unduly encroach on the middle parterre of the sunken garden.
2. The staff seems to have overlooked Section 1 of the Guidelines: "DISTRICT SETTING." The Commission must ensure that the application complies with each of the considerations of district setting found on pages 8 and 9. Although the reduction in size of the proposed garage is an improvement that does not mean that it is within the design guidelines. It would have a significant impact on changing the landscape setting along the northern property boundary.
3. Perhaps the most important aspect of this application is "Site Features and Planting." (pages 10-11). Of course, at this point the applicant has not provided the completed site plans – although they have hired a landscape architect. My view is that this is a landscape analysis that was created to justify a virtually completed design – rather than an architect designing an addition, fully informed by a careful landscape analysis. Perhaps the architect and landscape architect can convince the Commission otherwise, but I would be skeptical. Of particular importance are the treatment of the famous holly trees – that are always mentioned in accounts of Dr. Coker's botanical biography.
4. Walkways, Drives and Offstreet Parking (pages 18-19) In my view, there remains insufficient detail in the plans to provide assurance that the stone walls and features of the Promenade will be fully protected. The

location of the garage is so close to the original stone wall that it seems highly likely to suffer damage if construction of a garage in that location is allowed.

5. Of great importance is the extremely large garage with living quarters above. As detailed in the Guidelines at pages 20-21, the location, scale, height and proportions of the structure proposed in the application does not meet the requirement that new garages “Maintain the traditional height, proportion, and orientation of garages and accessory structures in the district.” One story garages are what are traditional in this neighborhood. The guidelines do not encourage or – in my view – allow the Commission to approve a garage that is only typical of very recent, inappropriately approved garages. The fact that the HDC has made a mistake in the past does not justify approving a stand alone garage with a residence above.
6. The application does not mention lighting, but the Commission should scrutinize the Exterior Lighting Guidelines on page 22 and 23. The existing lighting is ground level. Care should be taken to ensure that high lights with the capacity for flooding large areas are not allowed.

I would be glad to answer questions and elaborate on my opinions.

CATHARINE GILLIAM BURNS – 609 NORTH STREET, CHAPEL HILL, NC 27514

SUMMARY OF EDUCATION AND EXPERIENCE RELATED TO HISTORIC PRESERVATION AND LANDSCAPE  
HISTORY AND PRESERVATION

EDUCATION

- University of Virginia, School of Architecture Bachelor of Architectural History, 1978
- Washington and Lee University, School of Law Juris Doctor, 1982

RELEVANT PROFESSIONAL EXPERIENCE

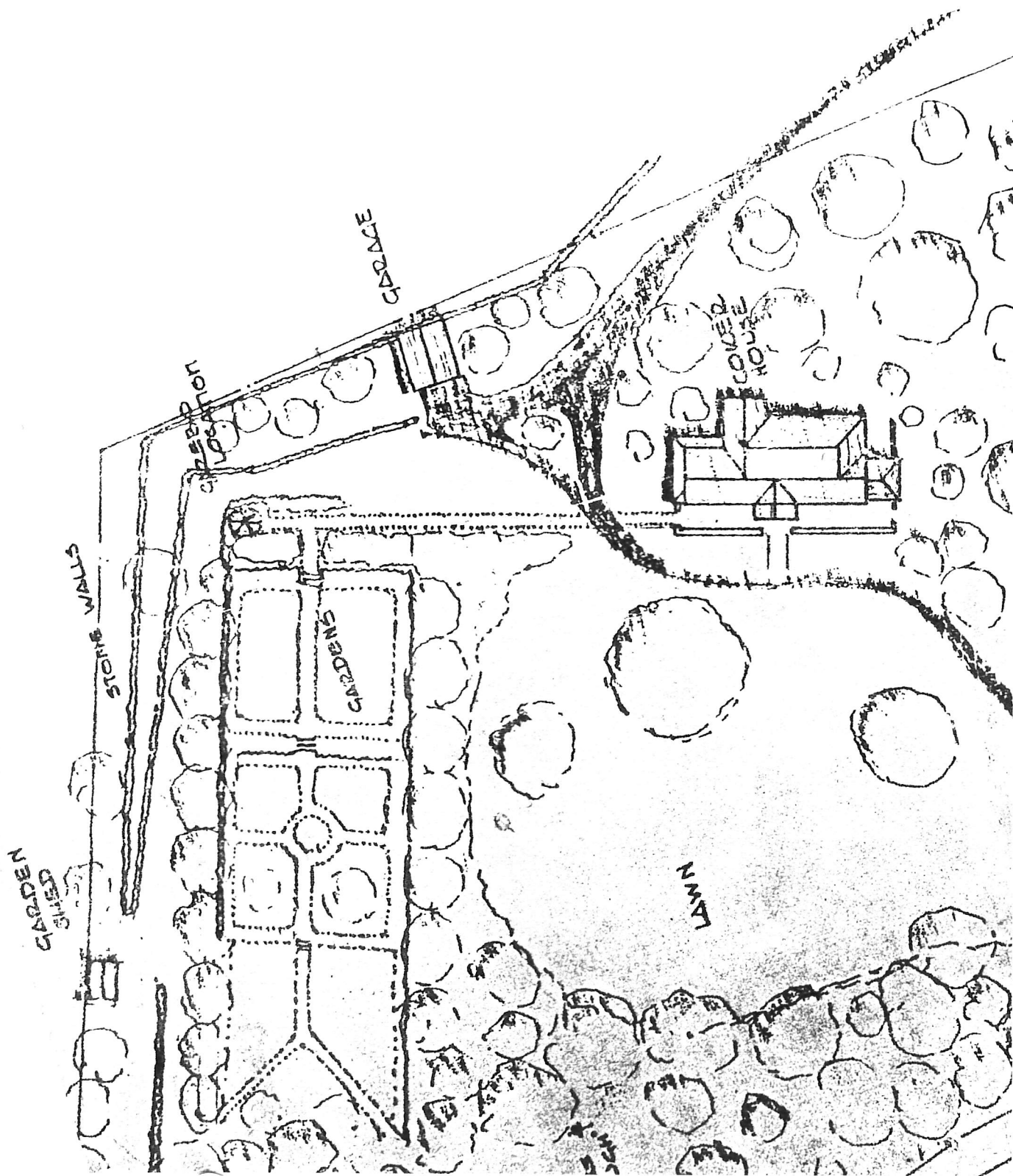
Experience between undergraduate and law school included working for the *Pittsburgh History & Landmarks Foundation* and the *Georgia State Historic Preservation Office*.

Post Law School:

- Associate Attorney, *McGuire Woods*, Richmond, VA. Defense of architects and engineers.
- Assistant General Counsel, *National Trust for Historic Preservation*
  - *Articles Editor, Preservation Law Journal*
- Director of Preservation Services, *National Trust for Historic Preservation*
  - *Editor, Preservation Forum Journal and Newsletter*
- Consultant to *Maryland Environmental Trust's* Rural Historic Village Protection Program and *Historic St. Mary's City (MD) Coalition*
- Executive Director, *Historic Fredericksburg Foundation (VA)*
- Adjunct Professor, Historic Preservation Department, Mary Washington College – class in historic preservation law and public policy
- Director of American Resources Information Network, *National Trust for Historic Preservation*
- Consultant to localities and state and federal agencies and non-profit organizations on many projects that involved historic preservation, both independently and as a staff member of *Carol/Trevelyan Strategy Group* (consulting firm that was based in Eugene, OR and Washington, DC)
- Virginia staff of *National Parks Conservation Association* (Virginia has over 20 units of the National Park System – many of which are historic sites)
- *Virginia Military Institute* – held the THOMAS BAHNSON AND ANNE BASSETT STANLEY PROFESSORSHIP IN ETHICS AND INTEGRITY (professorship 2013–2015) taught case study classes, some including historic preservation content.

PAST TESTIMONY AND PUBLIC SERVICE

- On two occasions (~ 1991 and 2003), I have been asked to testify as an expert witness in historic preservation in cases heard in different Circuit Courts in Virginia. In each case, the trial court judge ruled that I was qualified as an architectural history and historic preservation expert and I testified.
- In 2007, the Virginia General Assembly created the Fort Monroe Commission to oversee the future of historic Fort Monroe under the Base Closure and Realignment Commission (BRAC) procedure. The legislation called for appointment of a historic preservation expert. Governor Tim Kaine appointed me and I served until 2010. Fort Monroe is now a unit of the National Park system.
- I served as a member of the Garden Club of Virginia's Historic Landscapes Research Fellowships Committee and the club representative to the Garden Club of America's Garden History and Design Committee.



R GROUND'S PLAN - ca. 1920 (NOT TO SCALE)

OUR TOP  
DENTISTS 82

NEW LOCAL BOOKS FOR  
KIDS AND TEENS 24

ADORABLE  
OFFICE PETS 32

# CHAPEL HILL

CHAPEL HILL, CARRBORO, HILLSBOROUGH, ORANGE COUNTY AND CHATHAM COUNTY

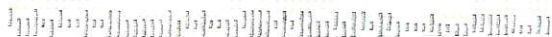
MAY/JUNE 2017

CHAPELHILLMAGAZINE.COM




## 3 Tranquil Outdoor Escapes

Page 48



Isabella Florence Corral, 9, and Lucia Beatriz Corral, 7, explore grandparents James and Florence Peacock's garden along with mother Natalie Peacock-Corral.






# THE GREAT OUT DOORS

**THREE FAMILIES EMBRACE CHAPEL HILL'S  
NATURAL BEAUTY WITH TRANQUIL  
(AND TRICKED-OUT) ESCAPES**

**BY LAURA ZOLMAN KIRK | PHOTOGRAPHY BY BRIANA BROUGH**



Natalie Peacock-Corral leads daughters Isabella, 9, and Lucia, 7, through her parents James and Florence Peacock's "enchanted" garden.



## HOW DOES YOUR GARDEN GROW?

When UNC professor of anthropology **James Peacock** (now retired after 45 years) and his wife, **Florence**, an accomplished professional singer of the baroque classical variety, bought this downtown lot in 1990, “the property had become a wild jungle,” daughter **Natalie Peacock-Corral** says. But the couple knew the property had once been owned by the late **William Coker**, a UNC professor of botany and founder of the **Coker Arboretum**, and they sought to recreate his original landscape design, as well as build a home with the help of modernist architect **Dail Dixon**. By 1992, both projects were complete, and the family has reaped the benefits of the garden’s wonder – beautifully maintained now by landscaper **Jim Flanagan** – ever since. And although daughter Natalie, son-in-law **Emiliano**

**Corral** and grandchildren **Isabella Florence Corral**, 9, and **Lucia Beatriz Corral**, 7, live in Durham now, they visit the ethereal green space and the grandparents often. “The old trees that surround the property date back hundreds of years and give a sense of being in an enchanted forest,” says Natalie of one of her favorite features. “Lucia is certain that magical fairies live in the lush greenery, coming out at night as the sun sets,” she adds.

Over the years, the home has been the backdrop to many social events, receptions and weddings (including Natalie’s own in 2005) and too many egg hunts, birthday parties and playdates to count for Lucia and Isabella. “It is secluded and private, yet UNC and downtown Chapel Hill are a short walk away,” Natalie says. ▶



From: **Jake Lowman** [jlowman@townofchapelhill.org](mailto:jlowman@townofchapelhill.org)   
Subject: RE: Request to members of the HDC with signature (3 pages)  
Date: March 11, 2019 at 3:38 PM  
To: WALTER WOODROW BURNS [woodrowburns@msn.com](mailto:woodrowburns@msn.com)  
Cc: Becky McDonnell [rmcdonnell@townofchapelhill.org](mailto:rmcdonnell@townofchapelhill.org), Anya Grahn [agrahn@townofchapelhill.org](mailto:agrahn@townofchapelhill.org)

Good Afternoon Wood,

Thank you for your email. In our view, it is not proper to provide this to the commission outside of the hearing, because it constitutes ex parte communication. This information would be best suited for the public hearing tomorrow evening.

Thank you,



**Jake Lowman, Senior Planner**  
Planning and Development Services  
405 Martin Luther King Jr Blvd. | Chapel Hill NC 27514  
Town of Chapel Hill | [www.townofchapelhill.org](http://www.townofchapelhill.org)  
t: 919-969-5082 | [jlowman@townofchapelhill.org](mailto:jlowman@townofchapelhill.org)

**From:** WALTER WOODROW BURNS [<mailto:woodrowburns@msn.com>]  
**Sent:** Saturday, March 9, 2019 4:21 PM  
**To:** Jake Lowman  
**Subject:** Fwd: Request to members of the HDC with signature (3 pages)

Jake,  
Please send to Sean and others.  
Wood

**TO:** Sean P. Murphy, Acting Chair, Chapel Hill Historic District Commission  
Participating HDC Members: Susan S. Smith, Kimberly Kyser, James White,  
James P. Locke, David Schwartz, Robert Epting (recused)

**FROM:** Dr. W. Woodrow Burns, Jr. 609 North Street, Chapel Hill

**RE:** Certificate of Appropriateness Application for  
306 North Boundary St. No. 19-0007

**DATE:** March 9, 2019 [rejected by staff – updated for submittal in person 03/12/19]

As you know, I am a member of the Historic District Commission, but I was formally recused from participation in this case as a Commissioner because I own the adjacent parcel of land - and for other reasons. I submit this request as an individual who has standing in this case.

I am sending this request in advance of the HDC hearing because it concerns only procedural items and I want to make sure they are considered carefully and responded to in writing. On Tuesday evening I will be prepared to formally submit relevant evidence under oath to be considered by Commission members – should you decide to proceed, despite my objections.

The application of Stephen Cumbie and Druscilla French, through their Builder and Out of State Architect Representative Erik Van Mehlman, has been processed in violation of the legal requirements. These errors and omissions have thus far been overlooked to my detriment in proceedings before this Commission. I am requesting that you require that these matters be fully addressed before any further action on the grant or denial of a Certificate of Appropriateness is taken. The advancement of this application - in violation of the North Carolina Code, the Town of Chapel Hill Ordinance and the Rules of Procedure of this Commission - has the potential to affect the value, sale and use and enjoyment of my property.

Specifically, the errors and omissions include:

- Application was improperly certified as complete in December 2018. Once the HDC pointed out that the application was not complete [primarily – but not limited to - the complete lack of a landscape plan at initial hearing], the clock on 180 days should have been stayed until a complete application was filed and made available to the public - with all parties who had expressed interest notified and provided access to all materials online.
- Notice was inadequate for case to be heard at January 2019 meeting. The public was only given 3 business days notice of the materials to be reviewed before and to prepare testimony for presentation at the January 2019 HDC meeting, when a minimum of 10 working days is required. This was pointed out and objection stated (by Catharine Gilliam Burns), yet the failure to provide adequate notice was ignored and the Commission proceeded with the hearing.

- No adequate staff report has ever been filed. The report only included a list of guidelines with no analysis. There has been no staff report presenting and summarizing the relevant evidence needed by the Commission to properly make a decision in this case.
  
- Interested parties were prohibited from submitting letters in advance of the hearing. Staff should review submitted materials from affected neighbors – or others with an interest in these proceedings - and evaluate them for inclusion in a staff report. Several neighbors were told that no information could be submitted in advance of the actual hearing and refused submittals. Some of these interested neighbors might very well have been denied the opportunity to provide sworn testimony before during the formal quasi-judicial hearing (e.g., lack of standing or not qualified as an expert). The Town of Chapel and this Commission should be interested in providing forums for all interested parties to be heard – with efficiency of administration and convenience of all parties. The Rules of Procedure of this Commission [5/09/2017] provide at VI (E): “*In cases where the Commission deems it necessary, it may hold a public hearing concerning the application.*” The only reasonable interpretation of this rule is that in certain cases the Commission may – as a supplement to the Quasi-Judicial Hearing – hold a public hearing similar to those before the Planning Commission. By email on February 1, 2018 Catharine Burns requested that the Commission be asked to consider holding a public hearing<sup>i</sup>. While staff communicated to her the rejection of this request, it is not clear whether this decision was made by the Commission or its Chair – as would be proper. We note that link to the HDC’s *Rules of Procedure* unfortunately and inexplicably were removed from the Town of Chapel Hill’s web site.
  
- The applicant team has been allowed to submit additional material in a piecemeal way without copies being made available to the interested public in a timely manner. As one example, the applicant’s presentation included material that was impossible for those in attendance to review or evaluate, no copies were provided for the public in attendance, and these materials were not posted to the Town’s web site until March 6, 2019 at 6:30 p.m. – only 4 business days before the March 12 hearing [*Ash Wednesday evening, when my family was attending church – giving little time to review and respond*].
  
- The legal question of whether the attempt to ‘extinguish’ the perpetual conservation easement, which has been in place for over 33 years and recognized under federal and state law is relevant to these proceedings has not been discussed by the Commission. No opportunity has been provided for me or for other members of the public, or agencies charged with overseeing the proper administration of the critically important conservation and historic preservation easement programs to be heard. I have several questions I would like to have answered and made part of the record with respect to this determination. I request any “opinion(s)” written by Counsel to the HDC or others on this issue be made available to me and the public with sufficient time to review research and respond before proceeding.

In addition, I request before the next hearing that the Commission rule on the following:

- 1) That I, Walter Woodrow Burns, Jr. of 609 North Street in Chapel Hill, NC, have standing in this case.**

Under North Carolina General Statute 160A-393, I have standing in this matter. Under subsection (d) of the statute, I have standing on two grounds:

*(1) Any person meeting any of the following criteria:*

*a. Has .....an interest created by easement, restriction, or covenant in the property that is the subject of the decision being appealed.*

*.....*

*(2) Any other person who will suffer special damages as the result of the decision being appealed.*

Please also see Owens and Lovelady, *QUASI-JUDICIAL HANDBOOK*, pages 29-31.

- 2) That Catharine Gilliam Burns, my wife, be recognized as an expert in historic preservation and allowed to testify in that capacity.**

At the January and February hearings in this case my wife noted that she has been qualified as a historic preservation expert in prior court proceedings and received an appointment to a “*Historic Preservation Expert*” position by Virginia Governor Tim Kaine. She has not been fully and formally recognized as such in this proceeding and I request that you do so prior to or from the beginning of the next hearing. She will, of course, be available so that the applicants or their attorney may cross-examine her in challenge to her credentials and expert opinion.

I request that the Commission’s response to this request be made in writing prior to or at the beginning of the scheduled hearing on March 12, for purposes of appeal.

Respectfully submitted,

/signed/

W. Woodrow Burns, Jr.

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<sup>1</sup> The Town of Chapel Hill’s web site section for [Board’s and Commissions](#) dedicated to the Historic District Commission includes the following statement and link: “Contact: Email the Board Please leave the Advisory Board Name in the email subject line.” This was a procedural request and thus this link was used to communicate to the board, with copy to staff – but apparently staff is able to block transmittal of materials submitted through the link provided to the public.



# HISTORIC CULTURAL LANDSCAPE:

## WILLIAM C. COKER ESTATE

RESPONSE TO THE APPLICATION FOR A CERTIFICATE OF  
APPROPRIATENESS

306 N. BOUNDARY STREET  
NO. 19-0007 CHAPEL HILL, N.C.  
HISTORIC DISTRICT COMMISSION



# OUTLINE OF PRESENTATION

- **Presentation and consideration of March 9 Memo / Procedural Requests to HDC**
- **Burns Ownership of 2/3 of Coker Estate**
- **Tools of Protection of Entire Property**
- **Impact of COA Proposal on Burns portion of property**
- **Summary of Significance to Historic District and Evaluation of Appropriateness & Congruency**  
*[requested testimony of Catharine G. Burns]*
- **Conclusion**

# HISTORY OF OWNERSHIP AFTER STEWARDSHIP OF DR. & MRS. COKER AND UNC

- 
- **The Whole is Significantly Greater Than the Sum of the Parts (or 2 parcels in this case)**
  - In 1984, UNC decided it could not use the 4.1 acres for University purposes – as had been intended in gift from Coker-Venable family
  - UNC sold entire tract to Woodrow and Mary Jane Burns and Kristina Lee with specific requirements that were intended to insure the restoration and then long term preservation and protection of the Coker estate.

# TOOLS AND STEPS TAKEN TO PROTECT ENTIRE ESTATE IN PERPETUITY

- 
- To make the purchase feasible, Dr. and Mrs. Burns joined with Mrs. Lee – who had initiated the proposal and shared a commitment to historic preservation.
  - A perpetual historic preservation/conservation easement was entered into in **1985 TO PROTECT THE ENTIRE 4.1 acres.**
  - Easement granted by Burns + Lee to the *Preservation Society of Chapel Hill* in accordance with the requirements of NC conservation and historic preservation easement statute **AND** US Internal Revenue Code requirements for perpetuity.
  - Creation of the easement was required under the Contract of Sale from UNC (to Burns+ Lee) – partially to fulfill the University's commitment to the Venable and Coker heirs from whom the University acquired this property.
  - As well as to protect a parcel of land central and "irreplaceable" to the history of the University and the community of Chapel Hill.

# BURNS OWNERSHIP OF 2.8 ACRES OF 4.1 ACRE COKER CORE ESTATE

- AFTER creating a perpetual conservation / historic preservation easement on the entire 4.1 acres (*which recognized and allowed initial subdivision*), ownership was divided between:
  - Lees (1.35 acres of formal gardens, Promenade and Dr. Coker's holly trees + other botanical and garden design features) and
  - Burns (2.8 acres including residence and remainder of cultural landscape – including 'geological preserve')
  - 1/3 ownership– Lee/Peacock/Cumby-French
  - 2/3 ownership – Dr. W. Woodrow Burns, Jr.

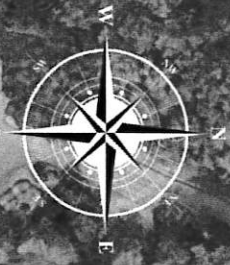


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NORTH STREET

TENNEY CIR

GLENBURNIE ST



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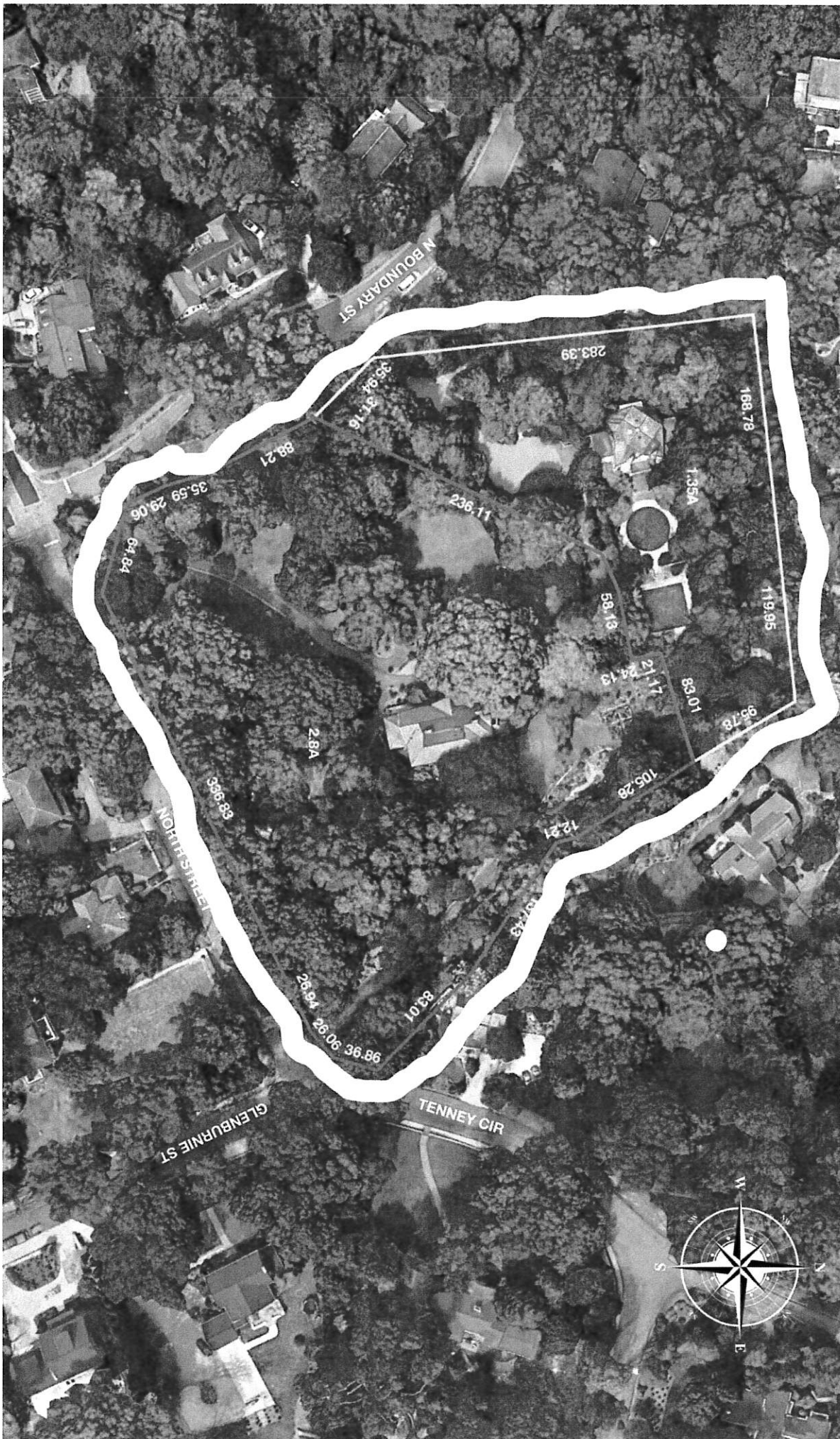
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# IMPACT OF ACTIONS TAKEN AND CONSIDERATION THIS CASE ON BURNS PROPERTY

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- Burns property with address of 609 North Street has been on the market since July 2017 (17.5 months); Peacock parcel with address of 306 N. Boundary St. (this application) was sold in September 2018 to the applicant after a period of time on market (listed for sale well before 609 North – not sure of date)
- My Listing broker was chosen in large part because they are trained by and affiliated with the National Trust for Historic Preservation's historic real estate program.
- A dominant and prominent aspect of the marketing of the 609 North Street property has been the existence of the 1985 easement, its requirements, responsibilities – but also the benefits.



# IMPACT OF ACTIONS TAKEN AND CONSIDERATION THIS CASE ON BURNS PROPERTY

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- I am hoping to sell to a future owner who treasures the historic, botanical, garden history and architectural significance of this property.
- In the meantime, I will fight with everything I have to uphold the commitments that I and others – including the University of North Carolina – have made to its perpetual preservation and value to the community.

# IMPACT OF ACTIONS TAKEN AND CONSIDERATION THIS CASE ON BURNS PROPERTY

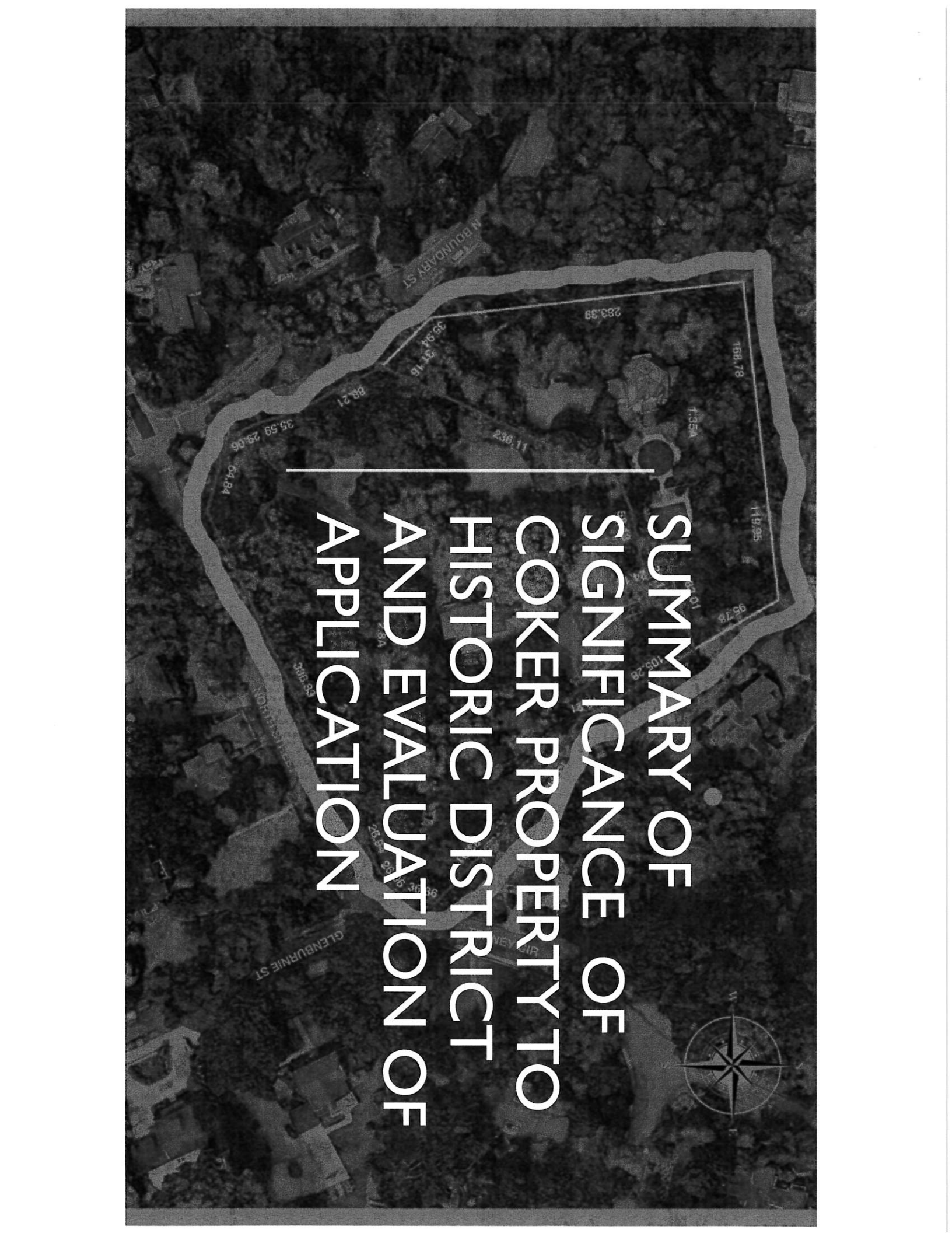
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- I had a cordial and generous friendship with my neighbors, Florence and Jim Peacock, from the time they purchased the companion 1/3 portion of the Coker Estate in 1991 until they moved in 2018
- Unbeknownst to me, in August 1985, Preservation Chapel Hill (formerly known as Chapel Hill Preservation Society – the organization to which we had donated the easement in 1985) executed a deed purported to ‘quitclaim’ their enforcement responsibilities under the easement to the Peacocks.
- The first hint that we had that the Cumbie-French and Peacock families had taken this action was during the Jan. ‘19 hearing before this Commission.

# IMPACT OF ACTIONS TAKEN AND CONSIDERATION THIS CASE ON BURNS PROPERTY

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- With the help of and extraordinary effort by Preservation North Carolina, we have offered to the applicants a chance to correct the problems caused by the attempt to extinguish the perpetual conservation easement.
- This would involve executing 2 separate but complementary new easements – one covering the 2.8 acre parcels and a second covering the applicants' 1.3 acre parcel.
- It is critical that the 2 easements be executed at the same time and be presented to a court for approval. The law requires that any change to a perpetual conservation easement the replacement easement(s) provide equal or greater protection.
- To date, the applicants have declined to execute a new easement.
- No COA should be considered or granted until the easement is resolved.

An aerial photograph of a residential neighborhood. A specific property is highlighted with a white outline. The property is roughly rectangular and contains several buildings and trees. A compass rose is located in the bottom right corner of the image. The text is overlaid on the right side of the image.

SUMMARY OF  
SIGNIFICANCE OF  
COKER PROPERTY TO  
HISTORIC DISTRICT  
AND EVALUATION OF  
APPLICATION



## SUMMARY & CONCLUSION

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- The Coker Estate is one of the most historic pieces of land in Chapel Hill
  - The application would permit actions that would be detrimental to and reduce the significance of the property as a whole – and that would be incongruent with the character of the historic district.
  - The Historic District Commission is currently the last line of defense in the preservation of the character of the Coker estate.
  - Chapel Hill through this Commission and UNC must protect the legacy of Dr. and Mrs. Coker – and the treasured, irreplaceable landscape they left for future generations.

