

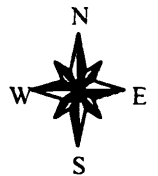
ATTACHMENT A

**A RESOLUTION PERMITTING THE DISINTERMENT OF THE EXISTING
CEMETERY LOCATED IN THE SOUTHEAST QUADRANT OF THE PROPERTY
AT 130 S. MERRITT MILL ROAD (TM# 7.92.J.9E)
Resolution No. 53/2004-05**

WHEREAS, the Carrboro Board of Aldermen is granted regulatory authority over the removal of graves within its municipal city limits; and

WHEREAS, a request for permission has been put before the Carrboro Board of Aldermen to relocate a cemetery found in the southeast quadrant of the property at 130 S. Merritt Mill Road (TM # 7.92.J.9E).

NOW, THEREFORE BE IT RESOLVED by the Carrboro Board of Aldermen that the Aldermen grant permission to South Atlantic Group to relocate the aforementioned graves on the aforementioned property per the provision of North Carolina State Statute 55-13.



§ 51-21

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49 S.E. 887 (1905).

§ 65-13

CEMETERIES

§ 65-13

Chapter 65.

Cemeteries.

Article 5.

Removal of Graves.

Sec.

65-13. Removal of graves; who may disinter,
move and reinter; notice; certificate
filed; reinterment expenses, due care
required.

ARTICLE 5.

Removal of Graves.

§ 65-13. 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 and 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 or burying ground for which such church has assumed responsibility of care and custody.
- (3) By an electric power or lighting company when it owns land that is to be used as a reservoir on which graves are located.
- (4) By any person, firm or corporation, which owns land on which abandoned cemeteries or burying grounds are located after first securing the consent of the governing body of the town, city or county in which such abandoned cemeteries or burying grounds are situated.
- (b) The party effecting the disinterment, removal and reinterment of a grave containing a decedent's remains under the provisions of this Chapter 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 situated 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 or burial ground.
- (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

§ 65-13

PUBLIC HEALTH AND RELATED LAWS

§ 65-13

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.

A fee of one dollar (\$1.00) for each page or portion of page of such 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 statistics of North Carolina shall promulgate regulations effecting 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 Chapter 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 Chapter disinterment, removal, and reinterment is 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 North Carolina General Statutes.

(g) All disinterment, removal and reinterment under the provisions of this Chapter 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

§ 65-13

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CEMETERIES

§ 65-13

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 Article 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. 8; 1947, cc. 168, 576; 1961, c. 457; 1963, c. 915, s. 1; 1965, c. 71; 1971, c. 797, s. 1; 1977, c. 811, s. 1.)

Local Modification. — Orange: 1963, c. 916, s. 14.

Cross References. — As to condemnation of burial grounds, see § 40-10; as to removal of or interference with monuments and tombstones, see § 14-148; as to interference with graveyards, see §§ 14-144, 14-149; as to disturbance of graves, see § 14-150; as to burial grounds on watersheds, see § 130-163.

Editor's Note. — The 1977 amendment added the second sentence of subsection (f).

Session Laws 1977, c. 311, s. 2, provides: "This act shall not affect grave removals for which contracts have been entered into prior to the effective date of this act." The act was ratified May 4, 1977, and made effective on ratification.

Action for Removal of Grave in Violation of Former Provision. — See *King v. Smith*, 236 N.C. 170, 72 S.E.2d 425 (1952).

The building of a new vestry room of a church to be used with the one as presently located in relation to the use of the choir, etc., comes within the purview of the statute permitting the removal of the bodies buried in the

churchyard by the proper authorities of the church, when necessary or expedient to do so, in carrying out the arrangement. *Mayo v. Bragaw*, 191 N.C. 427, 152 S.E. 1 (1926).

This section is much broader than older C.S. 5030, and reflects a recognition of the need for broad authority by church authority to meet the needs of a growing membership in relocating graves which would restrict that growth. *Singletary v. McCormick*, 36 N.C. App. 597, 244 S.E.2d 731 (1978).

The phrase "in order to" in subdivision (a)(2) of this section is synonymous with the phrase "as the means to." *Singletary v. McCormick*, 36 N.C. App. 597, 244 S.E.2d 731 (1978).

Relocation of Street to Enlarge Church Facility. — Though graves proposed to be relocated were within the area of a relocated street, the street was to be relocated "as the means to" expand or enlarge an existing church facility, and therefore relocation of the graves was permissible. *Singletary v. McCormick*, 36 N.C. App. 597, 244 S.E.2d 731 (1978).

September 20, 2004

To: The Carrboro Board Of Alderman

From: Boscoe Fulcher

Re: History regarding trying to find next of kin for the Stroud Family Cemetery

I called the department of vital statistics for Orange County and spoke with Elvira Mebane. I gave her the name and location of the cemetery and was informed that no record of that cemetery existed for that location.

I then called Carrboro and spoke to George Seiz in City Planning. He had no record of the cemetery and told me I should call William Gattis, who would be able to give me information.

I called William Gattis, told him who I was and asked him if he was a relative of the people buried in the Stroud Family Cemetery. He told me he did not know anything about it, they were no kin to him but told me to call Martha Gattis who might be able to give me some information.

I called Martha Gattis. She said she lived right near the cemetery and no Gattis family members were buried there. She said Stroud's were buried there.

I was told to call Rebecca Clark, that she was a leader in the community and she could tell me of some next of kin. When I called her she said she knew nothing about the cemetery.

I also went on Allen Dew's web site in search of the cemetery. Mr. Dew has done extensive research for genealogical reasons in Orange and Durham County. I found nothing relating to that cemetery on his web site. I also had a conversation with Mr. Dew inquiring about any further place to look and was informed by him that I had looked in all the available places.

I then ran the ad in The News and Observer, The Chapel Hill News for four consecutive weeks and got no response at all.

Respectfully

A handwritten signature in cursive script, appearing to read "Boscoe Fulcher". The signature is written in black ink and is positioned above the printed name.

Boscoe Fulcher

The Cary News
The Chapel Hill News

INVOICE
for
LEGAL ADVERTISING

Eastern Wake News
The Smithfield Herald
ATTACHMENT D-3

ACCOUNT NUMBER
21026970

ACCOUNT NAME
FULCHER L. J.

829-4680

DATE BILLED
06/20/04

BILLED TO:
FULCHER L. J.
224 N. RIVERDALE DR.
DURHAM NC 27712

NET 25

INVOICE NR	PUBLICATION DATE	DESCRIPTION	SPACE	RATE	COST
T4XGJ450201	05/30/04	BOSCOE/NOTICE FOR THE PURPOS	20.0L	0.77	15.40
T4XGJ450202	06/06/04	BOSCOE/NOTICE FOR THE PURPOS	20.0L	0.77	15.40
T4XGJ450203	06/13/04	BOSCOE/NOTICE FOR THE PURPOS	20.0L	0.77	15.40
T4XGJ450204	06/20/04	BOSCOE/NOTICE FOR THE PURPOS	20.0L	0.77	15.40
INVOICE AMOUNT DUE					61.60

Note: We are exempt from backup withholding. Our Corporate ID is 56-0338580. Please make checks payable to The News and Observer. Thank you.

AFFIDAVIT OF PUBLICATION

NORTH CAROLINA.)
Wake County.) Ss.

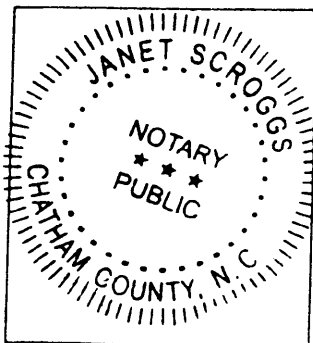
NOTICE

For the purpose of disinterment, removal and reinterment, I am looking for the next of kin to the remains of persons interred in the STROUD family cemetery, (DB 386 PG 151). This cemetery is located at 219 Guthrie Avenue, Carrboro, N.C. Anyone with information about the next of kin, please contact L. J. Fulcher 919-383-4305.

Before the undersigned, a Notary Public of Chatham County North Carolina, duly commissioned and authorized to administer oaths, affirmations etc., personally appeared Ivy Marsch, who, being duly sworn or affirmed, according to law, doth depose and say that she is Billing Manager-Legal Advertising of The Chapel Hill News a corporation organized and doing business under the Laws of the State of North Carolina, and publishing a newspaper known as The Chapel Hill News, in the City of Chapel Hill, Orange County and State aforesaid, the said newspaper in which such notice, paper, document, or legal advertisement was published was, at the time of each and every such publication, a newspaper meeting all of the requirements and qualifications of Section 1-597 of the General Statutes of North Carolina and was a qualified newspaper within the meaning of Section 1-597 of the General Statutes of North Carolina, and that as such she makes this affidavit; that she is familiar with the books, files and business of said corporation and by reference to the files of said publication the attached advertisement for FULCHER L. J. was inserted in the aforesaid newspaper on dates as follows: 05/30/04, 06/06/04, 06/13/04, 06/20/04

Account Number: 21026070

The above is correctly copied from the books and files of the aforesaid Corporation and publication.



[Signature]
Billing Manager-Legal Advertising

Sworn or affirmed to, and subscribed before me, this
21 day of JUNE, 2004 AD

In Testimony Whereof, I have hereunto set my hand
and affixed my official seal, the day and year aforesaid.

[Signature]

Notary Public

My commission expires 14th day of March, 2009.

Strowd:

There are 11 telephone numbers for the family name Strowd in the Carrboro, Chapel Hill phone book. I have called all of them with the following results:

5 messages were left

3 called back with no knowledge

2 were disconnected

3 had no knowledge

1 was the son of a no knowledge

I have enclosed a copy of the call sheet.

Respectfully

Boscoe Fulcher

(919) 556-5811
Fax (919) 556-5869

Attachment E

P. O. Box 545
405 South Main Street
Wake Forest, NC 27588-0645

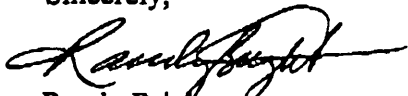


September 15, 2004

To whom it may concern:

After visiting the proposed grave relocation site in Carrboro recently, it is my professional opinion that there are two graves located on this property, one adult and one child. This determination is based on probing and physically inspecting the ground for depressions and rocks that could have been used to mark the head and foot of graves. These rocks differ in shape, size and placement from other rocks that may be coincidentally lying on top of the ground or slightly buried and have been historically used to mark graves when no other marker or monument was erected.

Sincerely,


Randy Bright
Funeral Service License #107

• Advance Funeral Planning • Cremation • Monuments

Oak Grove Memorial Gardens
Durham, NC

Restlawn Memorial Gardens
Raleigh, NC



P.O. Box 15148
3712 Cheek Road
Durham, NC 27704
Phone: (919) 688-5507 Fax: (919) 683-8353

Carolina Biblical Gardens
Garner, NC

Restland Memorial Gardens
Chapel Hill, NC

September 20, 2004

To: The Carrboro Board of Alderman

From: Boscoe Fulcher

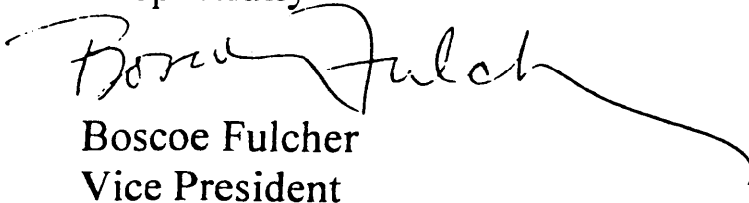
Re: Adequate room for interment of graves at Restland Memorial Gardens.

Restland Memorial Gardens is a perpetual care cemetery owned and operated by Woodlawn Memorial Gardens of North Carolina Inc. dba Restland Memorial Gardens.

Restland is located 9/10 of a mile north of the Route 86 exit of US40 west. There is approximately 58 acres in the tract with 2 developed cemetery acres.

Currently there are 500 plus property owners at Restland with developed room to inter 2000.

Respectfully


Boscoe Fulcher
Vice President



To: Carrboro Board of Alderman

From: Boscoe Fulcher

Re: Disinterment

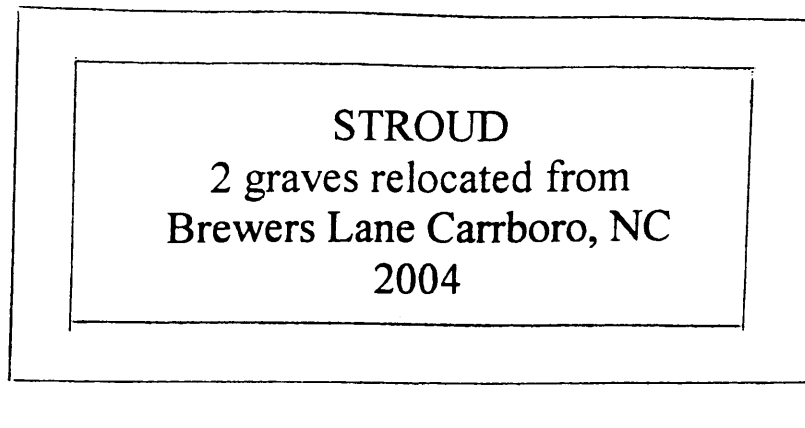
Randy Bright, a licensed funeral director with the expertise and equipment to do a thorough and professional job, will perform the disinterment.

The health department usually oversees the entire process. We will contact the Orange County Health Department and ask that they be present.

For the reinterment at Restland there will be a maintenance crew as well as myself, Randy Bright and the health department.

Respectfully

Boscoe Fulcher



20 X 10 BRONZE MOUNTED ON 24 X 14
GRANITE

WILLIAM GATTIS

104 Guthrie Avenue
Carrboro NC 27510
(919) 968-3820

**TO: Members of the Cemetery Commission
The Carrboro Board of Alderman**

**CC: James Harris, Community Development
Jeff Kleaveland, Planner/Zoning Development Specialist
Marty Roupe, Development Review Administrator**

Date: October 27, 2004

On Wednesday, October 20, 2004, at 6:30 p.m., I attended a neighborhood informational meeting presented by STGL, LLC for the expressed purpose of gathering input concerning their plans to develop approximately 8.8 acres adjacent to the Ready Mix Property and their application to the town of Carrboro for a special use permit.

I have reviewed documents detailing STGL, LLC's plans which involves placing 164 apartment units between my house and Merritt Mill Road and removing the Strowd Family Cemetery. The "Stroud Family Cemetery", at 219 Guthrie Avenue, Carrboro, NC 27510, was deeded as a cemetery (Deed Book 386, pg 151, area 0.1211, April 15, 1982), with an implied easement that encircles the graveyard. This means that there was a premeditated attempt to establish this area as a grave site and legally, access must be provided to the grave site for the public.

The presentation tried to play down the extended impact that placing 164 units in this area would have on Merritt Mill Road and the nearby neighborhoods.

On several occasions I have expressed my concerns about the number of units (too many), the increased density of people in the area, the lack of concern about the historical importance of this area, the removal of the Strowd grave site, and the lack of proper access to my property and my mother's property (Martha Gattis).

On November 9, 2004, I will be at the public discussion to air these concerns.

STGL, LLC has not met the preliminary requirements in the information presented to move forward on this project.

WILLIAM GATTIS

104 Guthrie Avenue
Carrboro NC 27510
(919) 968-3820

TO: Members of the Cemetery Commission
The Carrboro Board of Alderman

CC: James Harris, Community Development
Jeff Kleaveland, Planner/Zoning Development Specialist
Marty Roupe, Development Review Administrator

Date: October 27, 2004

Reference is made to STGL, LLC's request to remove the remains of "Stroud" Family Cemetery on property at 219 Guthrie Avenue, Carrboro, NC 27510.

I have reviewed documents presented to you September 19, 2004, detailing STGL, LLC's inquiry into the origins and family backgrounds for the grave site. I found their conclusions quite disturbing as there were several omissions and misleading statements. I have also looked at Allen Dew's web site in search of cemetery information and although he has done extensive research, I did not find the information definitive for the Stroud family for several reasons:

1. The "Stroud Family Cemetery", at 219 Guthrie Avenue, Carrboro, NC 27510, was deeded as a cemetery (Deed Book 386, pg 151, area 0.1211, April 15, 1982), with an implied easement that encircles the Graveyard. This means that there was a premeditated attempt to establish this area as a grave site and legally access must be provided to the grave site for the public.
2. A review of the property's background indicates that the "Strowd" family owned property contiguous to the grave site: Emma Strowd (unmarried, Mecklenburg County, Sept. 1919); James Strowd (Orange County, Oct. 18, 1919, who erected a house); Callie Strowd (foreclosure Jul. 12, 1932, deeded to Joseph Hyde Pratt).
3. My mother, Martha W. Gattis (age 92) says that there are at least 3 graves: Mama Strowd, Lou Strowd, and Callie Strowd which contradicts what Mr. Boscoe Fulcher said to you and to me. When I asked Mr. Fulcher if there were scientific means available to determine the number of bodies, he told me "no" and I have learned subsequently that there are other ways.

The only conclusion that I can draw from all of this maneuvering is that there has been no personal investigation into the existence of heirs of the Strowd family, just de facto legal procedures to exhume the bodies for building purposes. There has been no consultant to do archeological research at the grave site. Hence, no real evidence about the number of bodies buried in the cemetery.

There has been no consideration given to the historical/heritage significance of the Strowd Family Cemetery, just a continuing exploitation of this particular community for personal gain!

STGL, LLC has not met the preliminary requirements in the information presented to move forward on this project and requests to use the Strowd Family Cemetery as a development site should not be pursued.

2209 Century Drive, Suite 450
Raleigh, NC 27612
(919) 881-0029
(919) 881-9795 fax

**Simpson-Hurley
Management, LLC**

Memo

To: Marty Roupe
From: Steve Simpson
Date: 11/1/2004
Re: Stroud Cemetery
CC: Jeff Kleaveland

Attached is a memorandum from Boscoe Fulcher responding to certain assertions made by Mr. Gattis in his memorandum October 27, 2004. Would you please include this in the Board package?

Would you also forward a copy of the recommendation that the Cemetery Commission agreed to provide the Board when it is available?

Thanks for your help.

Boscoe Fulcher
224 North Riverdale Drive
Durham, North Carolina 27712
(919) 210-2697

October 29, 2004

To: The Carrboro Board of Alderman

CC: James Harris, Community Development
Jeff Kleaveland
Marty Roupe

Please accept this correspondence in response to the October 27, 2004 letter from William Gattis.

I would first like to address omission and misleading statements.

I have omitted nothing in the attempt to find the next of kin to the Stroud's buried in the Stroud family cemetery. I have inquired with the Orange County Department of Vital Statistics, they have no record.

I have inquired with the Town of Carrboro City planning and talked to George Seiz who had no record but told me William Gattis owned the land. I called William Gattis who told me he did not own the cemetery and did not know who was buried there except the name was Stroud. He also told me his mother; Martha Gattis might be able to tell me more.

I called Martha Gattis and was told no Gattis was buried there, it was all Stroud's and she did not know who they were.

I have run a "Legal Notice" ad in the Chapel Hill Carrboro edition of the News and Observer for four consecutive weeks with no response.

I have called all the Stroud's and Strowd's in the Chapel Hill Carrboro phone book and found no one that had any knowledge of the cemetery.

I have left no stone unturned.

Addressing items 1, 2, and 3:

1. This information was given to The Board of Alderman on our first visit.
2. The cemetery is Stroud Family Cemetery.
3. Mr. Gattis was present when Randy Bright, Steve Simpson and Myself were there to inspect the sight to determine how many graves were there. He told us his mother might know more about the cemetery. I asked him if we could talk to her. He said she was sick. He went and spoke with her and came back to tell us there were three burials there instead of two that Elizabeth Stroud was buried there also at a location at the point of the area. We found no evidence of a burial being in that location.


I have no recollection of Mr. Gattis ever asking me about scientific means available to determine the number of bodies buried there.

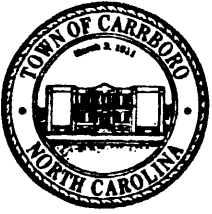
The Stroud Family Cemetery was completely covered with abandoned automobiles when I first looked at the cemetery. When a disinterment and reinterment is made in our perpetual care cemetery and the graves properly marked the historical/heritage significance of the Stroud Family Cemetery will be perpetually cared for and protected by the North Carolina Cemetery Commission and a record maintained with their existence for eternity.

Randy Bright is a Funeral Director and Owner of Bright Funeral Home in Wake Forrest. He owns Bright Memorials and has a grave digging business that does disinterments and reinterments. I use him because he is extremely thorough and is very attentive to detail. I completely trust his judgment determining where burials are and how many.

I have been in the cemetery business for 21 years. I have been in sales, general management, and corporate Vice President and have done everything involved with a cemetery to include digging graves. I have done 30 plus disinterments and reinterments. I have served on the Board of Directors of the North Carolina Cemetery Association and served as its President in 2000. I was appointed to the North Carolina Cemetery Commission in 2001 by Speaker of the House Jim Black and currently serve as its Chairman. The North Carolina Cemetery Commission regulates the 177 perpetual care cemeteries in North Carolina.

Respectfully


Boscoe



TOWN OF CARRBORO
PUBLIC WORKS DEPARTMENT

RECOMMENDATION STATEMENT

Friday, October 29, 2004

Planning Department
Town of Carrboro
301 West Main Street
Carrboro, North Carolina 27312

Attn: Jeff Kleaveland, Planner/Zoning Development Specialist

Dear Mr. Kleaveland,

The members present at the October 19th meeting of the Cemetery Commission approve the request to disinter and relocate the existing graves found in the southwest quadrant of 130 S. Merritt Mill Road (Tax Map number 7.92.J.9E).

Signed,

Wallace Womble