

## MEMORANDUM

TO: Chapel Hill Planning Board

FROM: J.B. Culpepper, Planning Director  
Loryn Clark, Housing and Neighborhood Services Coordinator

SUBJECT: Review of Revised Neighborhood Conservation District Proposal for the Coker Hills Neighborhood

DATE: April 3, 2007

### PURPOSE

Tonight we return to the Planning Board to present staff responses to the revised Neighborhood Conservation District Proposal developed by the Coker Hills Consensus Committee for the Coker Hills neighborhood (see Attachment 1).

The Planning board is asked to make a recommendation for the April 23, 2007, Public Hearing.

### BACKGROUND

On March 20, 2007, the Planning Board received the first version of the Coker Hills Consensus Committee Neighborhood Conservation District Proposal. The Planning Board also received the staff response to the first version of the proposal at that meeting (see Attachment 2). On March 27, 2007, the Coker Hills Consensus Committee submitted a revised proposal, which was also sent to property owners included in the proposed boundary (see Attachment 1).

### DISCUSSION

The following provides staff comment on the revised Coker Hill's Consensus Committee's Neighborhood Conservation District Proposal for the Coker Hills neighborhood:

1. **Neighborhood District Boundary:** The previous boundary recommendation was unchanged in the revised proposal.

*Staff Comment:* We continue to recommend the boundary as proposed by the Coker Hills Consensus Committee.

2. **Minimum Lot Size:** The Coker Hills neighborhood is currently zoned Residential-1 (R-1), which requires a minimum lot size of 17,000 square feet or .39 acre. The revised proposal continues to recommend and increase of the minimum lot size to 26,000 square feet, or .6 acre.

*Staff Comment:* We continue to recommend a minimum lot size of 26,000 square feet, or .6 acre, as proposed by the Coker Hills Consensus Committee.

3. **Minimum Street Setback:** The current R-1 zoning requires a minimum street setback of 28 feet. The revised proposal continues to recommend the increase of the minimum street setback to 40 feet.

*Staff Comment:* We continue to recommend a minimum street setback of 40 feet, as proposed by the Coker Hills Consensus Committee.

4. **Minimum Interior Setback:** The current R-1 zoning requires a minimum interior setback of 14 feet. The revised proposal continues to recommend the increase of the interior setback to 20 feet.

*Staff Comment:* We continue to recommend increasing the minimum interior setback to 20 feet. The Chapel Hill Land Use Management Ordinance distinguishes between an interior setback and a solar setback, which in R-1 zoning are 14 feet and 17 feet respectively. We believe that the recommendation refers to both setbacks and continue to recommend the increase of both to 20 feet.

5. **Maximum Floor Area Ratio:** The current R-1 zoning does not apply a floor area ratio to single-family homes. The revised proposal continues to recommend the creation of a floor area ratio of .2.

*Staff Comment:* We continue to recommend the creation of a floor area ratio of .2, as proposed by the Coker Hills Consensus Committee.

6. **Maximum Building Square Footage:** The current R-1 zoning does not provide a maximum building square footage. The previous recommendation to cap the maximum square footage of a house at 6,250 square feet was changed to 7,500 square feet.

*Staff Comment:* We support the revised recommendation to cap the maximum square footage of a house at 7,500 square feet.

7. **Accessory Dwelling Units:** The revised proposal continues to recommend including a provision that no additional minimum lot size would be required to develop an accessory apartment, and that an accessory apartment is permitted with every single-family dwelling.

*Staff Comment:* We continue to support this recommendation.

8. **Effective Date:** The revised proposal recommends setting an Effective Date for the proposed Neighborhood Conservation District Overlay Zoning of January 1, 2008.

*Staff Comment:* We support the recommendation to set an Effective Date for the proposed Neighborhood Conservation District Overlay Zoning of January 1, 2008.

Opportunity for a protest petition to a proposed amendment to the Zoning Atlas is provided for under North Carolina Statutes. If a valid protest petition is filed with the Town Clerk, the proposed rezoning shall not become effective except by favorable vote of not less than seven (7) members of the Town Council. On May 10, 2006, Town Clerk received a valid and effective

protest petition that was signed by owners of 33.7 percent of the land area in the Coker Hills neighborhood. We note that this protest petition is no longer applicable because there has been a significant change to the proposal for a Neighborhood Conservation District for the Coker Hills neighborhood.

Copies of protest petition forms and additional information are available from the Planning Department or the Town Clerk. Protest petitions must be filed with the Town Clerk by 5 p.m. Wednesday, April 18, 2007.

### SUMMARY OF RECOMMENDATIONS

In summary, we recommend the following in response to the Revised Neighborhood Conservation District Proposal for the Coker Hills Neighborhood:

<b>Land Use Regulation</b>	<b>Current Zoning</b>	<b>Coker Hills Consensus Committee Recommendation</b>	<b>Town Staff Recommendation</b>
1. Neighborhood Conservation District Boundary	N/A	See attached	As proposed
2. Minimum Lot Size	.39 Acre (17,000 Square Feet)	.6 Acre (26,000 Square Feet)	.6 Acre (26,000 Square Feet)
3. Minimum Street Setbacks for Single-Family Dwelling (or Single-Family Dwelling with Accessory Apartment)	28 feet	40 feet	40 feet
4. Minimum Interior Setbacks for Single-Family Dwelling (or Single-Family dwelling with Accessory Apt)	14 feet, 17 feet northern interior	20 feet	20 feet
5. Maximum Floor Area Ratio for Single-Family Dwelling (or Single-Family Dwelling with Accessory Apartment)	N/A	.2	.2
6. Maximum Size for Single-Family Dwelling (or Single-Family Dwelling with Accessory Apartment)	N/A	7,500 square feet	7,500 square feet
7. Accessory Apartments	Permitted with a 34,000 square feet minimum lot size	Permitted – No additional minimum lot size requirement	Permitted - No additional minimum lot size requirement
8. Effective Date	N/A	January 1, 2008	January 1, 2008

### **NEXT STEPS**

The Planning Board is asked to make a recommendation on the rezoning prior to the April 23, 2007 Public Hearing. On April 11, 2007, the Council will receive a request to continue the Public Hearing to the April 23, 2007, Council meeting.

### **RECOMMENDATION**

We recommend that the Planning Board recommend that the Council enact the attached resolution establishing a Neighborhood Conservation District overlay zone for this neighborhood.

### **ATTACHMENTS**

1. Revised Coker Hills Consensus Committee Neighborhood Conservation District Proposal Cover Letter and Chart Comparison
2. March 20, 2007 Memorandum, "Review of Neighborhood Conservation District Proposal for the Coker Hills Neighborhood"

**A RESOLUTION TO RECOMMEND THAT THE COUNCIL APPROVE THE PROPOSED ZONING ATLAS AMENDMENT TO CREATE A NEIGHBORHOOD CONSERVATION DISTRICT FOR THE COKER HILLS NEIGHBORHOOD**

WHEREAS, the Planning Board of the Town of Chapel Hill has considered an amendment to the Zoning Atlas to create a Neighborhood Conservation District for the Coker Hills Neighborhood, and finds that the amendment is warranted in order to achieve the purposes of the Comprehensive Plan;

NOW, THEREFORE, BE IT RESOLVED that the Planning Board recommends that the Council amend the Chapel Hill Zoning Atlas to create a Neighborhood Conservation District for the Coker Hills neighborhood.

BE IT FURTHER RESOLVED that the Planning Board recommends that the Town Council enact the following zoning regulations for a Neighborhood Conservation District for the Coker Hills Neighborhood:

<b>Land Use Regulation</b>	<b>Planning Board Recommendation</b>
1. Boundary	As proposed
2. Minimum Lot Size	.6 Acre (26,000 Square Feet)
3. Minimum Street Setbacks for Single-Family Dwelling (or Single-Family Dwelling with Accessory Apartment)	40 feet
4. Minimum Interior Setbacks for Single-Family Dwelling (or Single-Family dwelling with Accessory Apt)	20 feet
5. Maximum Floor Area Ratio for Single-Family Dwelling (or Single-Family Dwelling with Accessory Apartment)	.2
6. Maximum Size for Single-Family Dwelling (or Single-Family Dwelling with Accessory Apartment)	7,500 square feet
7. Accessory Apartments	Permitted - No additional minimum lot size requirement
8. Effective Date	January 1, 2008

This the 3<sup>rd</sup> day of April, 2007.

**From: the Coker Hills Consensus Committee (CHCC)**

**To: the Coker Hills Neighborhood**

**Regarding: the Coker Hills Neighborhood Conservation District (NCD) Proposal**

26 March 2007

Dear Coker Hills residents,

The Consensus Committee met for its final time tonight to discuss the comments and suggestions raised by neighbors since the draft Proposal was mailed to you on March 14<sup>th</sup>. Because of the Committee's desire to fully discuss these concerns, a vote by the Planning Board was delayed at the March 20<sup>th</sup> meeting, and the date of the 7 pm **Public Hearing** was moved (from April 11<sup>th</sup>) to **April 23<sup>rd</sup>**. **The Proposal enclosed herein will go before the Planning Board at its next meeting: 6 pm on Tuesday, April 3<sup>rd</sup>**. These are dates when neighbors may come and speak to the Planning Board and the Town Council before the Coker Hills NCD appears on the Council's agenda for their vote, sometime in May. You are most welcome to call or email any of the Consensus Committee members: contact information is at the bottom of the chart.

On the other side of this page you will find the Consensus Committee's final Proposal, in chart form. Nothing has changed since your last viewing of this chart in the March 14<sup>th</sup> mailing except a reversion of the maximum house size to that originally proposed a year ago in the Clarion NCD, (and, more recently, in the Consensus Committee's original proposal), of 7,500 square feet. In concert with the 0.2 floor area ratio (FAR), this 7,500 square foot maximum is not reached until a lot size of 0.86 acres. The Committee knows well that no one proposal will please everyone. This item had been part of the NCD for over a year and thus, is not a figure new to the neighborhood. Paired with the 0.2 FAR and the increased setbacks (from the current R-1 – see chart), we believe this to be a fair compromise between preserving the "look" of the neighborhood and the number of concerns we have heard expressed about property values.

Another change to the draft Proposal of March 14<sup>th</sup> is a removal of the final footnote. The following exception is no longer included in our Proposal:

"Properties in the Coker Hills NCD that are bounded by more than two streets (thereby potentially subject to the more restrictive street setback of 40' on three sides) may be governed by the less restrictive 20' (of the interior setback) on the sides of their properties that do not face the street 'in front of' the house."

And, finally, the Committee has decided not to include any restrictive language aimed at lowering the occupancy of accessory apartments. There is a desire in the neighborhood to allow accessory apartments on lots of any and all sizes in Coker Hills. There is also awareness of the potential to increase density of people and vehicles beyond levels desirable for the neighborhood. The Committee does not believe, however, that restrictive language will be acceptable to either the Planning Board or to the Staff, and has opted to steer clear of that controversy.

All remaining items (minimum lot size, maximum floor area ratio, minimum street and interior setbacks, maximum building height, and the recommendation to allow accessory apartments) remain unchanged. You may rest assured that the Proposal herein is the Consensus Committee's final Proposal. While we are aware that some at either end of the spectrum will not, we believe a majority of the neighborhood supports the compromises we have reached and will be able to "live with this" happily.

With this, and our best wishes to you and to Coker Hills, we sign off.

**Coker Hills Consensus Committee**  
**Neighborhood Conservation District Proposal:**  
**CHART COMPARISON**

Land Use Regulation	Current (R-1) Zoning	Covenant	CHCC NCD Proposal
Minimum Lot Size	0.4 acre	0.6 acre	<b>0.6 acre</b>
Max. Floor Area Ratio (FAR)*	0.076 (does not apply to single-family dwellings)	n/a	<b>0.2 **</b>
Max. house size			<b>7,500 sf ***</b>
Min. street setbacks	28 feet	50 feet	<b>40 feet</b>
Min. interior setbacks	14 feet	25 feet	<b>20 feet</b>
Max. building height (primary/secondary)	29'/40'	n/a	<b>no change recommended</b>
Accessory apartments	allowed on lots of 0.8 acre min.	allowed on all lot sizes	<b>allowed on all lot sizes</b>

(Any regulations not considered in the CHCC NCD Proposal are covered by R-1.)

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\* Floor Area Ratio is the result of dividing the total square footage of a home by the total acreage of the lot.

\*\* With a FAR of 0.2 the largest allowable house on a 0.6 acre lot would be 5,227 square feet; a 0.8 acre lot would accommodate a 6,969 sf house. Regardless of the lot size, the max. house size allowed is 7,500 sf.

\*\*\* Floor Area is defined in the Town of Chapel Hill Land Use Management Ordinance as: "The sum of enclosed areas on all floors of a building or buildings measured from the outside faces of the exterior walls, including halls, lobbies, arcades, stairways, elevator shafts, enclosed porches and balconies, and any below-grade floor areas used for access and storage. Not countable as floor area are open terraces, patios, atriums, balconies, carports, garages, breezeways and screened porches."

**Should this NCD be adopted by the Town Council, the Coker Hills Consensus Committee proposes that the effective date be 01 January 2008.**

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Margy Champion	968-3514	<a href="mailto:mcampion@nc.rr.com">mcampion@nc.rr.com</a> (Planning Board liaison)



## **MEMORANDUM**

TO: Chapel Hill Planning Board

FROM: J.B. Culpepper, Planning Director  
Loryn Clark, Housing and Neighborhood Services Coordinator

SUBJECT: Review of Neighborhood Conservation District Proposal for the Coker Hills Neighborhood

DATE: March 20, 2007

### **PURPOSE**

The purpose of this report is to present staff responses to Neighborhood Conservation District recommendations developed by the Coker Hills Consensus Committee for the Coker Hills neighborhood (see Attachment 1).

### **BACKGROUND**

On March 7, 2005, the President of the Coker Hills Neighborhood Association petitioned the Council for establishment of a Neighborhood Conservation District. On March 29, 2005, the neighborhood submitted its formal petition with signatures from property owners to the Town Clerk. On June 15, 2005, the Council authorized the Town Manager to contract for services with Clarion Associates to prepare Neighborhood Conservation Districts for the Coker Hills neighborhood as well as the Greenwood, Morgan Creek/Kings Mill and Pine Knolls neighborhoods.

On February 21, and March 21, 2006, the Planning Board received public input from Coker Hills residents about the proposed Neighborhood Conservation District. Some residents who spoke in favor of the proposal noted that a Neighborhood Conservation District might help to preserve the current look and feel of the neighborhood. Some residents who spoke in opposition to the proposal objected to proposed standards with regard to setbacks, height limits, and floor area ratios. There was also some dissatisfaction expressed about the process of consideration of a Neighborhood Conservation District.

On May 10, 2006, Town Clerk received a valid and effective Protest Petition that was signed by owners of 33.7 percent of the land area in the Coker Hills neighborhood. The effect of the petition will require a three-fourths vote by Council to enact new zoning.

At a Public Hearing on May 15, 2006, an alternative staff recommendation was presented to the Council that proposed a minimum lot size of .6 Acres (26,000 Square Feet) and the condition that no additional land area would be needed to build an accessory apartment. Again, testimony from residents reflected support and opposition to the proposed Neighborhood Conservation District regulations and to the process that was used to develop the recommendations. The Council indicated that it would not take action on the Neighborhood Conservation District recommendation and requested that the staff provide a summary of options for future actions regarding the Coker Hills neighborhood.

On June 12, 2006, the Council considered the options for future actions regarding the Coker Hills Neighborhood Conservation District. The Council recessed the Public Hearing until September 27, 2006 in order to give the neighborhood more time to work together. The Council requested that staff provide a point person for the neighborhood and that the Planning Board be included if the neighborhood took any future action.

On September 27, 2006, the Council received a progress report from the staff reporting that the Coker Hills residents were still in discussions about a Neighborhood Conservation District for their neighborhood. The Council passed a resolution to recess the Coker Hills Neighborhood Conservation District Public Hearing until March 5, 2007.

On March 5, 2007, the Council adopted a resolution to continue the Coker Hills Neighborhood Conservation District Rezoning Public Hearing until April 11, 2007.

### **COKER HILLS CONSENSUS COMMITTEE**

The neighborhood-lead Coker Hills Consensus Committee was formed in response to the Council's request for the neighborhood to work together. On June 20, 2006, the Planning Board appointed Board member Margy Campion to be the liaison between the Planning Board and the Coker Hills Neighborhood. Housing and Neighborhood Services Planner Rae Buckley, and Housing and Neighborhood Services Coordinator Loryn Clark, have served as the Town's point persons for the neighborhood. Since June, Ms. Campion worked with residents of the neighborhood to select members of a Consensus Committee. The neighborhood committee is composed of eight neighborhood residents with varying opinions about the proposed Neighborhood Conservation District. Ms. Campion has also facilitated the Committee meetings.

The Committee agreed that its purpose was "to determine what works for Coker Hills in conjunction with the neighborhood." To date, the group has met on ten occasions to discuss a Coker Hills Neighborhood Conservation District. The Committee drafted a report and a draft Neighborhood Conservation District proposal that was distributed by mail to the neighborhood. The Committee also met with the neighborhood in a meeting facilitated by former Planning Board Chair, Tim Dempsey, on January 29, 2007, to present the report and receive feedback from the neighborhood. After the January 29 meeting, the Committee revised its proposal as documented in Attachment 1. The revised proposal was mailed to the neighborhood on March 14, 2007.

### **DISCUSSION**

The following provides staff comment on the recommendations presented by the Coker Hills Consensus Committee:

**Neighborhood District Boundary:** The Consensus Committee recommended a similar boundary as what was previously proposed. The Committee continues to recommend exclusion of properties in the Vernon Hills Subdivision.

*Staff Comment:* We also recommend exclusion of the Vernon Hills properties from the Neighborhood Conservation District boundary. We generally believe that in the case where there is disagreement regarding boundary lines, the issue should be decided using the Neighborhood Conservation District designation criteria included in the Land Use Management

Ordinance (Section 3.6.5 (a)). However, since there seems to be agreement among residents from both neighborhoods to exclude the Vernon Hills properties, we support the consensus of the neighborhood on this issue.

**Minimum Lot Size:** The Coker Hills neighborhood is currently zoned Residential-1 (R-1), which requires a minimum lot size of 17,000 square feet or .39 acre. The Consensus Committee recommendation is to change the minimum lot size to 26,000 square feet, or .6 acre.

*Staff Comment:* We also recommend increasing the minimum lot size to .6 acre. Existing lots below the .6 acre minimum lot size would become nonconforming lots. Please refer to Attachment 2 for a discussion of nonconformity.

**Minimum Street Setback:** The current R-1 zoning requires a minimum street setback of 28 feet. The Consensus Committee recommendation is to change the minimum street setback to 40 feet.

*Staff Comment:* We also recommend increasing the minimum street setback to 40 feet. Existing structures that do not meet this regulation would have a nonconforming feature. Please refer to Attachment 2 for a detailed discussion of nonconforming features. The regulations provide a special status if a home no longer complies with the setback regulations that allow the structure to be rebuilt if damaged or destroyed.

**Minimum Interior Setback:** The current R-1 zoning requires a minimum interior setback of 14 feet. The Committee's recommendation is to change the interior setback to 20 feet.

*Staff Comment:* We also recommend increasing the minimum interior setback to 20 feet. The Chapel Hill Land Use Management Ordinance distinguishes between an interior setback and a solar setback, which in R-1 zoning is 14 feet and 17 feet respectively. We believe that the recommendation refers to both setbacks and recommend the increase of both to 20 feet. Existing structures that do not meet this regulation would have a nonconforming features. Please refer to Attachment 2 for a detailed discussion of nonconforming features. The regulations provide a special status if a home no longer complies with the setback regulations that allow the structure to be rebuilt if damaged or destroyed.

**Maximum Floor Area Ratio and Maximum Building Square Footage:** The current R-1 zoning does not apply a floor area ratio to single-family homes, nor does it currently provide a maximum building square footage. We note that this type of regulation was included in the previous Neighborhood Conservation Districts. The Consensus Committee's recommendation is to impose a floor area ratio of .2 and to cap the maximum square footage of a house at 6,250 square feet.

*Staff Comment:* We also recommend the creation of a floor area ratio of .2, and to cap the maximum building square footage of a house at 6,250 square feet, as proposed.

**Accessory Dwelling Units:** The recommendation from the Consensus Committee includes a provision that no additional minimum lot size would be required to develop an accessory apartment, and that an accessory apartment is permitted with every single-family dwelling.

*Staff Comment:* We concur with this recommendation.

## NONCONFORMING STATUS

A constant theme throughout discussions in all four neighborhoods has been the extent to which new regulations would affect existing properties. Please refer to Attachment 2 for a full discussion of the topic.

The Land Use Management Ordinance defines and provides a special status for land use conditions that were lawfully established but no longer conform to regulations. The Ordinance describes these types of nonconformities:

- Nonconforming lots
- Nonconforming features
- Nonconforming uses

Each of these is described more fully in Attachment 2. With the establishment of a Neighborhood Conservation District for the Coker Hills neighborhood, we anticipate that some nonconforming features will be created. Nonconforming features have a special status in Chapel Hill's regulations. Sometimes referred to as "grandfathering", the special provisions state that homes with nonconforming features can be rebuilt if damaged or destroyed.

We recommend maintaining the use of "nonconforming status" to describe properties that do not conform to the new regulations. We believe this existing Ordinance language protects the homeowner to the greatest extent because it legally grandfathers the existing features of a home. In other words, the "nonconforming status" protects the footprint and dimensions of the house in case a homeowner is ever faced with the need to replace any or all of the structure. The only action restricted by a "nonconforming status" is that which increases the degree or extent of the nonconforming feature. Building additions would have to meet the new regulations unless a variance were to be granted by the Board of Adjustment.

In the interest of protecting property investments, we are aware that residents have expressed a strong preference to grandfather features that do not conform to the new regulations without using the phrase, "nonconforming status." We believe the use of the existing nonconformity language provides the homeowners the best protection.

### SUMMARY OF RECOMMENDATIONS

We recommend the following in response to the Consensus Committee's recommendations:

<b>Land Use Regulation</b>	<b>Current Zoning</b>	<b>Coker Hills Consensus Comm. Recommendation</b>	<b>Town Staff Recommendation</b>
Minimum Lot Size	.39 Acre (17,000 Square Feet)	.6 Acre (26,000 Square Feet)	.6 Acre (26,000 Square Feet)
Minimum Street Setbacks for Single-Family Dwelling (or Single-Family Dwelling with Accessory Apartment)	28 feet	40 feet	40 feet
Minimum Interior Setbacks for Single-Family Dwelling (or Single-Family dwelling with Accessory Apt)	14 feet, 17 feet northern interior	20 feet	20 feet
Maximum Floor Area Ratio for Single-Family Dwelling (or Single-Family Dwelling with Accessory Apartment)	N/A	.2	.2
Maximum Size for Single-Family Dwelling (or Single-Family Dwelling with Accessory Apartment)	N/A	6,250 square feet	6,250 square feet
Accessory Apartments	Permitted with a 34,000 square feet minimum lot size	Permitted – No additional minimum lot size requirement	Permitted - No additional minimum lot size requirement

### ATTACHMENTS

1. Recommendations from Coker Hills Consensus Committee
2. Discussion of Nonconforming Status

**A RESOLUTION TO RECOMMEND THAT THE COUNCIL APPROVE THE PROPOSED ZONING ATLAS AMENDMENT TO CREATE A NEIGHBORHOOD CONSERVATION DISTRICT FOR THE COKER HILLS NEIGHBORHOOD**

WHEREAS, the Planning Board of the Town of Chapel Hill has considered an amendment to the Zoning Atlas to create a Neighborhood Conservation District for the Coker Hills Neighborhood, and finds that the amendment is warranted in order to achieve the purposes of the Comprehensive Plan;

NOW, THEREFORE, BE IT RESOLVED that the Planning Board recommends that the Council amend the Chapel Hill Zoning Atlas to create a Neighborhood Conservation District for the Coker Hills neighborhood.

BE IT FURTHER RESOLVED that the Planning Board recommends that the Town Council adopt the following regulations for a Neighborhood Conservation District for the Coker Hills Neighborhood:

<b>Land Use Regulation</b>	<b>Planning Board Recommendation</b>
Boundary	
Minimum Lot Size	
Minimum Street Setbacks for Single-Family Dwelling (or Single-Family Dwelling with Accessory Apartment)	
Minimum Interior Setbacks for Single-Family Dwelling (or Single-Family dwelling with Accessory Apt)	
Maximum Floor Area Ratio for Single-Family Dwelling (or Single-Family Dwelling with Accessory Apartment)	
Maximum Size for Single-Family Dwelling (or Single-Family Dwelling with Accessory Apartment)	
Accessory Apartments	

This the 20<sup>th</sup> day of March, 2007.

## Attachment 1

March 14, 2007

Dear Coker Hills Resident,

Enclosed you will find the final Neighborhood Conservation District (NCD) recommendation from the Coker Hills Consensus Committee (CHCC). There has been a good deal of movement from the proposal presented at the neighborhood-wide meeting on the 29<sup>th</sup> of January. Please read through the proposal and let us know what you think. There is a contact sheet of CHCC members enclosed along with this. Notice has been sent out about a meeting of the Planning Board on March 20<sup>th</sup>. There is time for public comment at that meeting. You will also have the opportunity to express your views to the Town Council at the Public Hearing at Town Hall on April 11<sup>th</sup>.

We have also enclosed a mail-back post card as another means for you to let us know what you think. Please understand that this is not meant to secure a "vote" of the neighborhood. Decisions like NCDs are not made by democratic vote of a neighborhood. This card, in addition to email, phone and letter, is simply another option for communication. We hope to receive these cards back from you as soon as possible, but certainly by the end of the month.

Thanks so much for your patience and willingness to hang in there with this lengthy process. We all hope that we are nearing the end, with a successful outcome for the long, happy life of Coker Hills.

Sincerely,



Margy Champion  
Planning Board liaison to the CHCC

**Coker Hills Consensus Committee  
Neighborhood Conservation District Proposal:  
CHART COMPARISON**

Land Use Regulation	Current (R-1) Zoning	Covenant	CHCC NCD Proposal
Minimum Lot Size	0.4 acre	0.6 acre	0.6 acre
Max. Floor Area Ratio (FAR)*	0.076 (does not apply to single-family dwellings)	n/a	0.2 **
Max. house size			6250 sf ***
Min. street setbacks	28 feet	50 feet	40 feet ****
Min. interior setbacks	14 feet	25 feet	20 feet
Max. building height (primary/secondary)	29'/40'	n/a	no change recommended
Accessory apartments (see attached note)	allowed on lots of 0.8 acre min.	allowed on all lot sizes	allowed on all lot sizes

(Any regulations not considered in the CHCC NCD Proposal are covered by R-1.)

\* Floor Area Ratio is the result of dividing the total square footage of a home by the total acreage of the lot.

\*\* With a FAR of 0.2 the largest allowable house on a 0.6 acre lot would be 5,227 square feet. Regardless of the lot size, the max. house size allowed is 6250 sf.

\*\*\* Floor Area is defined in the Town of Chapel Hill Land Use Management Ordinance as: "The sum of enclosed areas on all floors of a building or buildings measured from the outside faces of the exterior walls, including halls, lobbies, arcades, stairways, elevator shafts, enclosed porches and balconies, and any below-grade floor areas used for access and storage. Not countable as floor area are open terraces, patios, atriums, balconies, carports, garages, breezeways and screened porches."

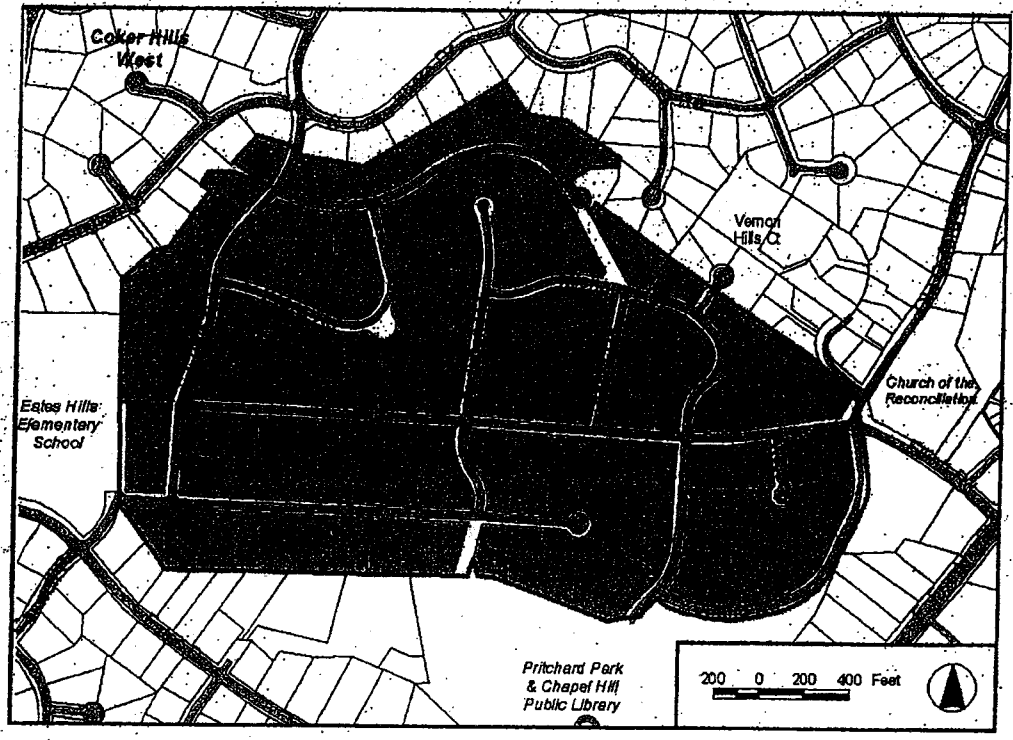
\*\*\*\* Exception: properties in the Coker Hills NCD that are bounded by more than two streets (thereby potentially subject to the more restrictive street setback of 40' on three sides) may be governed by the less restrictive 20' (of the interior setback) on the sides of their properties that do not face the street "in front of" the house.

Boundary: see map

Should this NCD be adopted by the Town Council, the Coker Hills Consensus Committee proposes that the effective date be 01 January 2008.



### Coker Hills Neighborhood Proposed Neighborhood Conservation District



 Proposed Coker Hills Neighborhood Conservation District

GIS Map prepared by  
Chapel Hill Planning  
February, 2007

A Review of the Relationship Between  
The Coker Hills covenant and any proposed NCD

The relationship between the Coker Hills restrictive covenant and any proposed Neighborhood Conservation District has been central to the tensions in Coker Hills over the crafting of an NCD. As with any restrictive covenant, the Coker Hills covenant is a private contract between landowners and is currently enforceable only through a private lawsuit. Local government has no role in the enforcement of private contracts.

Proponents of the covenant want to preserve the character and "feel" of the neighborhood by codifying the covenants (particularly the street and interior setbacks) in the form of a Neighborhood Conservation District. These proponents might naturally wonder why other Coker Hills residents would object to this, given that all residents have entered into a private agreement to honor the covenant.

The answer presumably lies in the fact that a covenant does not "feel" like a private contract that one has personally negotiated with another. A number of Coker Hills residents bought their homes (some who were planning to make renovations and/or additions) without knowledge of the Coker Hills covenant, never having been presented with the document at the closing sale of the property. This oversight does not change the legal effect of the covenant: a suit may be brought to test the enforceability of the covenant setbacks whether the "offender" knows about the covenant or not. At the same time, however, these homeowners may feel less personally committed to this private agreement. They may even disagree with it and might not elect to elevate the covenant to a matter of public interest (zoning), enforceable by the town through the vehicle of the NCD.

There have been comments made during this process about the relationship between the NCD and the covenant that have been misleading. It has been said that the proposed NCD is "unlawful" because it does not include the same setbacks as the covenant. This is not true. There is nothing that requires that the setbacks of the NCD match those of the covenant. The NCD may be different *and lawful*. The current zoning regulation (R-1) differs from the covenant. No one would argue that it does not follow the law. In short, there is no legal requirement that the public policy reflected in the zoning regulation (R-1 or NCD) must match the private agreement among landowners reflected in the covenant.

Because the NCD process was initiated by the Coker Hills neighborhood, endorsing anything less than the covenant setbacks (50' street and 25' interior) as part of the NCD may be perceived by some as reduced neighborhood support for the covenant. That perception may be accurate. It may also have implications for whether neighbors decide to sue each other to enforce the covenant. It is, however, the fervent hope of the Consensus Committee that Coker Hills neighbors will not resort to private lawsuits.

**Coker Hills Consensus Committee Members  
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and

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And esp. for questions about process and the history of the Coker Hills NCD leading up to the formation of the Coker Hills Consensus Committee, contact:

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March 7, 2006

### Special Status Neighborhood Conservation Districts

Residents participating in the Neighborhood Conservation District process ask a common question regarding *nonconformities* as related to new neighborhood standards that may create conditions where a resident's house does not meet the new regulations: Can I rebuild my house if it is destroyed?

*Yes, you can rebuild your house. Nonconforming features have a special status. Your house can be rebuilt if it is damaged or destroyed. Existing structures that were lawfully established but do not conform to today's regulations are "grandfathered", meaning that if it is demolished or destroyed, it can be rebuilt in the same place, size and height as existed prior to the demolition or destruction. This pertains to structures in Neighborhood Conservation Districts (NCD) and those outside of NCD's.*

That being said, the *degree or extent of a nonconformity cannot be increased.* Additions to existing structures would have to conform to the current regulations. For example, a structure may be able to expand within the required property setbacks on one property line (e.g. the back of the house) but not another. The Land Use Management Ordinance does not distinguish between newly created nonconformities (in NCD's) from existing nonconformities. The same rules apply.

Additionally, there are three types of nonconformities: lots, features, and uses, as follows:

**Nonconforming Lot:** A nonconforming lot is a lot that does not meet the minimum land area requirement of the Land Use Management Ordinance.

For almost all circumstances, the status of a lot as a nonconforming lot poses no negative impacts for a single family residential property owner. If a nonconforming lot is vacant, the owner can still build a single family house. If a single family house already exists on a nonconforming lot, the house can be used, expanded, and rebuilt if destroyed. The impact of nonconforming lot status occurs when multiple, adjacent lots are held in common ownership and one or more is nonconforming. In keeping with State Statutes, Chapel Hill's Land Use Management Ordinance contains the following language: "Where a nonconforming lot abuts another lot of record (whether conforming or nonconforming) held in the same ownership at or subsequent to enactment of this Chapter, such lots shall be combined or recombined as necessary to form a conforming lot or lots and shall not thereafter be subdivided except in compliance with all of the requirements of this Chapter."