

**Correspondence
Received**

Mayor and Members of the Council;

I come before you tonight with a petition from the owners in my neighborhood to ask you to remove Winter Hill S/D from the Kings Mill Morgan Creek NCD area. We are proud to be our own neighborhood and do not care to be part of the proposed NCD.

Attached to our petition is a page from the Morgan Creek S/D restrictive covenants that were amended by the owners in Morgan Creek S/D in 2002. Item #16 does not allow access from our S/D to theirs.

Private property rights as well as personal rights are much too important to each of us to just capriciously draw up a map and overlay restriction we neither need nor want. The argument we were given is that the “University” will swoop down and take our property however for us DOT has been our bigger nemesis.

We feel the best protection is higher property values and the NCD may have a negative impact on value.

The town should let neighborhoods through their civil enforcement of their restrictive covenants take care of their “neighborhood” issues in the courts. It seems unfair that town staff is not paid enough to live in Chapel Hill yet we spend tax money to protect affluent neighborhoods like Morgan Creek that as recently as 2002 were able to adjust their covenants with a 75% majority in agreement.

We as a neighborhood wondered who drew up the NCD map? The Kings Mill Morgan Creek NCD is actually a sort of planning “Frankenstein” with the map taking in parts of some

9 neighborhoods or subdivisions each with their own existing civil solutions for their neighborhood problems.

The subdivisions are: Manning Heights S/D, Goose Farm S/D, W C Coker S/D, William Lanier Hunt S/D, Morgan Creek S/D, Morgan Bluff S/D, Morgan Bend S/D, Creekside S/D and Winter Hill S/D. It is interesting to me that there is no “Kings Mill S/D” within the boundaries of the NCD only a road with that name. Will the next NCD be the MLKNCD, Franklin Street NCD, Fordham Blvd NCD?

The NCD is at best a tool used to help the less fortunate and at its worse a way for “relatively affluent neighborhoods to try and maintain their way of life by suppressing other people’s property rights.”(See DTH article attached to petition)

My grandfather was fond of saying that “If he knew where and when he was gonna die he’d be a hundred miles from there that day!” None of us knows what the future may hold for us but to limit future owners of these properties to our own selfish current desires seems at best short sighted. Should the owners of properties in the KMMCNCD want more protection why not let them rewrite their covenants with a true majority of the owners in agreement with the changes not just 51%.

Only in recent presidential elections has 51% been seen as a mandate!

If those looking for others to conform to their tastes or wants need such conformity they should move to a gated community like the Governor’s Club where no real diversity need be tolerated.

I did not move to Chapel Hill to become a conformist and I didn’t buy my property 15 years ago so that someone who has moved in the last 5 years can tell me how to live on it.

“We’re from the government and we’re here to help!” Sends chills down my spine.

Please remove our neighborhood from the KMMCNCD and thank you for your time and consideration.

**Thank you,
John McPhaul**

PETITION TO BE OMITTED FROM KM-MC NCD

As residents of Winter S/D we hereby request that our neighborhood be omitted from the proposed Kings Mill-Morgan Creek Neighborhood Conservation District. We currently have no interconnectivity with the Kings Mill-Morgan Creek neighborhood. In fact the newly revised Morgan Creek restrictive covenants(2002) do not allow interconnectivity from adjacent S/Ds.(Article 16, Deed Book 2588/ Page 153 Orange County Records;see attachment to petition.)

We want to remain our own Winter S/D neighborhood. Thank you for your consideration in this critical matter.

SEPTEMBER 25, 2005

WINTER S/D

OWNER NAME

SIGNATURE

LOT #

Lot 1,2 & 5

John & Nina McPhaul

John & Nina McPhaul

Lot 3

Betsy Fenhagen

Betsy Fenhagen

Lot 4

Jane McPhaul

Jane McPhaul

Lot 6

Bill & Shirley Kohn

Shirley Kohn

Lot 7

Walter & Mary Smith

Bill Kohn

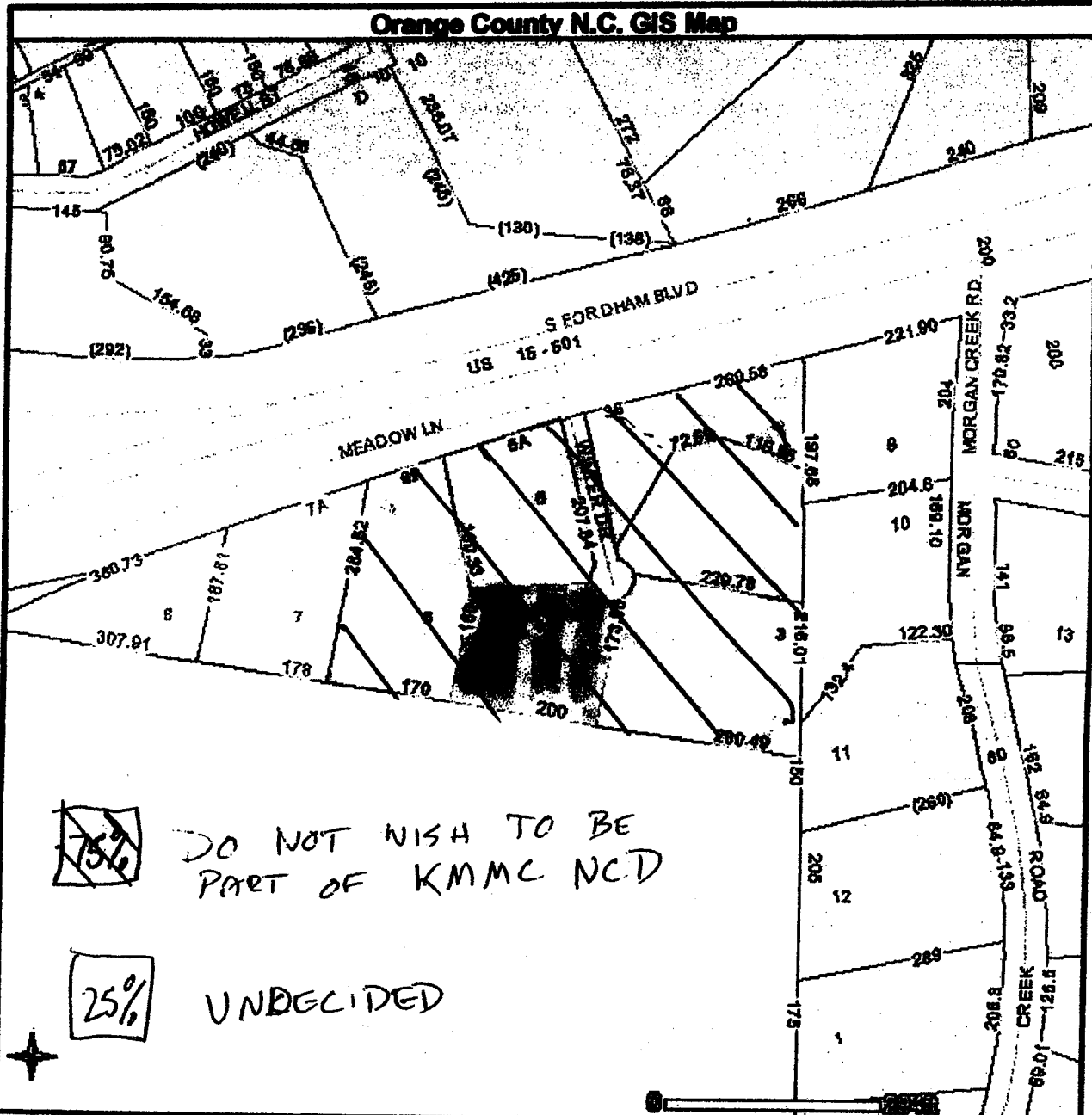
Lot 8

Mark Tenney

Barabara Nowell

38

Orange County N.C. GIS Map



This map contains parcels prepared for the inventory of real property within Orange County, and is compiled from recorded deeds, plats, and other public records and data. Users of this map are hereby notified that the aforementioned public primary information sources should be consulted for verification of the information contained on this map. The county and its mapping companies assume no legal responsibility for the information contained on this map.

This Page Printed Saturday, September 24, 2005 11:01 am

Parcels Current Thru 9/14/2005. Owner Information Current Thru 9/2/2005

Parcel Identification Number: 9788404069

- Summary
 Building
 Land
 Documents
 Prior Owners
 Addresses

Create Print Data Page

shall be situated on any Lot within a setback of fifty (50) feet from the street that the house faces to the front of the house.

13. *Derelict Motor Vehicles.* No Lot Owner will place, allow, or maintain any non-functional motor vehicles outside of an enclosed building for more than thirty (30) days.

14. *Appearance of Lots.* Each Lot Owner will maintain his or her lot in a neat and orderly appearance.

15. *Noxious Activities.* Each Owner will refrain from any act or use of his Lot that could reasonably cause annoyance or nuisance to the neighborhood.

16. *External Access.* No Lot Owner will grant an easement allowing access to property outside of the Development from within the Development.

17. *Construction or Remodeling.* All construction must be completed within one (1) year of the issuance of the building permit authorizing the construction. Construction debris will be removed from the Lot promptly and no building materials or equipment will be stored on any Lot except as necessary for construction and will be removed promptly upon completion of construction. Construction trailers and temporary buildings will be permitted for construction purposes during actual construction so long as they do not violate the setbacks set out above and are removed promptly at the conclusion of construction.

18. *Tree Preservation.* Lot Owners will not clear any contiguous area containing more than twenty (20) percent of any Lot of trees except as reasonably necessary for the construction and maintenance a single-family residence, permitted accessory structures, driveways, and walk ways, or to remove dead or diseased trees. Any Owner violating these provisions shall be responsible for restoring the damaged areas with reasonably suitable trees and plantings.

19. *Enforcement and Waiver.* Any Lot Owner may prosecute a proceeding at law or equity against any person violating or attempting to violate these covenants. The failure to enforce any right, reservation, restriction, or condition contained in this Declaration, however long continued, shall not be deemed a waiver of the right to do so thereafter as to the same breach or as to a breach occurring prior or subsequent thereto and shall not bar or affect its enforcement.

20. *Partial Invalidity.* Invalidation of any one of these covenants by judgment or court order will not invalidate any other provisions, which will remain in full force and effect.

Town residents are targeting student living space unfairly

What does the now-expired ban on duplex construction have in common with neighborhood conservation districts?

Everything but the student opposition. The effects are largely the same.

Potential student housing is blocked, NCD residents save on housing costs and students pay higher rents in a tightened housing market. The difference is that with the NCD status, town residents can zone out duplexes and other high-density residences through building regulations — without using the words: duplex ban.

Students should watch the emergence of these districts with the same skepticism that they held for the duplex ban. After all, a reduced housing supply will inevitably mean higher rents for them. The net result? Those living in NCDs pay less and those living outside of them pay more.

That's not to say that NCDs are inherently a bad idea. There are certainly the less affluent parts of town, such as the Northside district, that could use the NCD status.

But it's ridiculous for residents of relatively affluent neighborhoods to try and maintain their way of life by suppressing other people's property rights.

So far, four neighborhoods are trying to become an NCD: Greenwood, Kings Mill/Morgan Creek, Pine Knolls and Coker Hills. But not all of those neighborhoods really want NCD status for their residents for the purpose of providing low-income housing.

Many of them are just trying to make someone else deal with the unpleasantness of student housing.

The change in vocabulary — from duplex ban to "conservation" — seems to have led to a very different discourse. The duplex ban, which lasted from 2002 to 2004, was wide open for critics. It effectively declared to the world that the town



JEFF KIM
NO LONGER A VILLAGE

saw students as a problem.

Not surprisingly, the ban drew opposition from the groups that it was hurting: students, developers and some low-income renters.

Now residents are using NCDs as a refined weapon — without the language of a "ban" — against student housing. By utilizing the language of historical preservation instead, growth opponents haven't set off student trip wires.

It's a dangerous path that town officials are facing. They run the risk of blurring legitimate goals — such as affordable housing in low-income neighborhoods — with the self-interest of wealthy residents.

Northside residents were vocal proponents of the duplex ban, for example. But unlike the newcomers, Northside residents had a strong case for their protection.

Residents argued that they needed the NCD designation to protect their historically black — and less affluent — neighborhood from rising homeownership costs. Rightfully so, they are the only neighborhood that has been granted the NCD status.

Northside residents could become priced out by duplexes as the demand for their lots increased. As has happened in many neighborhoods across the country, those residents would be forced by higher tax rates to sell their homes and move on.

But affluent neighborhoods, like Greenwood Road on the other hand, can afford the increased property rates. They would just rather not deal with the noise and unattractiveness of student hous-

ing. And students probably don't want Greenwood prices, either.

Greenwood residents couldn't even wait for the regular process to go through before cracking down on property rights. Local landowner Tom Tucker wanted to subdivide his lot earlier this year after the neighborhood applied for NCD, but residents asked the town to rezone the area specifically to block his action — which they saw as serving against the spirit of their neighborhood.

They got their wish.

You'll have to excuse me, but I'm a bit sketched out when a town rezones an entire neighborhood to block one man's legal transaction. Tucker's attempt to subdivide his property might have been in poor taste, and it might not have been in accordance with his neighbors' ideas, but any profit he made by doing so would have been acquired fairly and honestly.

Furthermore, it's likely that the type of high-density building that Tucker's subdivided lots would have become could have helped satisfy the demand for student housing in the area. If the NCD plans for each of the applicant neighborhoods goes through, it will be increasingly difficult for students to find off-campus housing.

Local residents are pushing a banner of progressivism and tying their parochial interests on the ends. They're talking about preservation and history. And what liberal can argue against "conservation?" But the bottom line comes at the expense of students and property owners.

Students shouldn't let the language of conservation deceive them. At its heart, this is the same issue as the duplex ban.

And to some degree, it's a debate about students' rent.

Contact Jeff Kim,
a senior economics major,
at kjongdae@email.unc.edu.

To Members of the Planning Board;

I am in Wake Forest watching my daughter's East CH High basketball team in the NC State playoffs. Go Wildcats!!

Please allow me to enter my comments into the record as to the NCD proposed for Winter S/D. There are a total of eight lots in this small S/D and the owners of six (75%) have requested (per petition to town council) to be left out of the boundary for the NCD.

We feel that the town regulation for our neighborhood would be more appropriate when we are within the city limits and have the ability to vote for those deciding the fate of our properties. We are entering into a "taxation/regulation without representation" mentality and we would prefer to leave our future options for our properties open to innovation.

I am uncertain as to the pressing threat that requires the passing fad we are calling NCD protection. I prefer to deal with my neighbors by talking to them rather than reporting them to the authorities. Then the inspections department has to sort out silly neighborhood disputes. If you don't believe me speak to your inspectors. There time is better spent on inspecting the safety of buildings rather than the fact that a fence is 3" to high in one spot. Most of the NCD items can be taken care of through civil action that costs the town nothing. There are new restrictive covenants for Morgan Creek S/D that should along with zoning and city ordinances keep the peace among neighbors. This NCD proposal will be expensive and increase the workload on already overworked town staff. No doubt taxes will need to be increased to pay for the enforcement regulations that only benefit a small segment of town.

We have already spent much effort and money on writing LUMO and then we seem to just throw those ideas out the window when wealthy neighborhoods request status quo protection from real or perceived threats. It is very difficult to take a picture of anywhere and expect it to stay the same over time.

Currently the NCD "rush to council" urgency seems empty and faddish beside the more pressing issue of getting pedestrians across Fodham Blvd safely.

I implore you to remove our S/D from Roger Waldon's and Sally Greene's NCD map since it should have never been included. If you should find that our proximity to the town Meadow is reason to include us then we should also include the homes across the creek from the Meadow.

I think the town already has enough on its' plate without volunteering to enforce restrictive covenants for neighborhoods that have proven they can enforce their own covenants through recent court actions. Civil arguments are a dangerous place for the town staff to wander into and the NCD will likely create just this scenario.

Thank you for your hard work on this board and for your time.

John McPhaul
1 Winter Drive
Chapel Hill, NC 27517

Petition to Include Winter Subdivision in the Morgan Creek NCD

We the undersigned residents of Meadow Lane declare our support for including the Winter Hill Subdivision in the Kings Mill-Morgan Creek Neighborhood Conservation District. We want to preserve, protect and enhance the value and character of our neighborhood—and we are all part of one neighborhood. Physically, our lots and houses are similar in character to the rest of the neighborhood. Socially, we are part of the neighborhood (we're on the neighborhood listserv, for example). Further, we believe there is a special reason we should be included: our proximity to the meadow warrants our inclusion because our houses and lots form part of the meadow vista. It is very important to the ecosystem of the meadow that our neighborhood maintain its low-impact orientation. It is important that this set of lots that border the meadow remain visually compatible with the natural environment. We believe the goals of the NCD for the Kings Mill-Morgan Creek neighborhood can only be fully met if the Winter Mill Subdivision is included.

(13)

<u>Barbara Nowell</u>	<u>BARBARA Nowell, 300 MEADOW LANE</u>
<u>Mark Teaney</u>	<u>MARK TEANEY</u>
<u>Shirley K. Kohn</u>	<u>SHIRLEY K. KOHN 304 Meadow Ln, C.H.</u>
<u>Wm. T. Kohn</u>	<u>Wm. T. Kohn 304 Meadow Lane; C.H.</u>
<u>Ivan R. Smith</u>	<u>Mary R. Smith 302 Meadow Lane</u>
<u>Walter L. Smith</u>	<u>Walter L. Smith 302 Meadow Lane C.H.</u>

King Mill-Morgan Creek interviews by Sally Greene

By telephone unless otherwise indicated

These are interviews conducted between Jan. 22, right around the time of the third and final Clarion neighborhood meeting, and Monday, Feb. 20, after the publication of Clarion's final recommendations, which you have before you. Clarion's recommendations did not change very much over that period. Ideally I want to call everybody, in order to get a real sense of the neighborhood's support for the recommendations. But in the interest of time, I decided to concentrate first on the parts of the neighborhood that are more distant from my house, because I had less of a sense of what those folks were thinking.

So, most of these interviews are with people not on the western end of the neighborhood where I live. I will formally survey these neighbors too, as I have time; some of them will be at your meeting Tuesday and can speak for themselves. Also in the interest of time, I have not yet interviewed members of the board of directors of the Kings Mill-Morgan Creek Neighborhood Association (about a dozen people). Board members have been participating in the process, and I think a number of them will be at your meeting as well.

Note: unless they brought it up, I didn't ask about restrictions on "unrelated persons" or other tools to regulate rental, because nothing is on the table now (other than a 25 percent front yard parking restriction). Also I often forgot to ask about Winter Hill; or if it was clear that the neighbor was starting almost from square one with understanding the basics, I left it out. This is as far as I've gotten. I wish it were more complete, but it's what I could do in the time available.

Not scientific or thorough, but I hope it helps.

Robert Femer, 903 Coker Dr., 1/22/06

"I was at the first meeting, couldn't make the second, but after the first which seemed well attended it seemed to me everything was going in the right direction."

"I have looked at the Clarion report and will look at it again but I think I can support everything in it." Asked about the proposed rule of giving notice to neighbors before cutting trees, "I don't cut trees very often so it certainly wouldn't hurt me to wait a day or two." Asked about the idea of prohibiting big opaque fences in front yards, "Yes I could support that. I agree that the settings of the houses are part of what makes the neighborhood special."

"I'm not greedy, I'm not in it for the money; I do want to leave to others a neighborhood that looks like it does now, because that is valuable." Supports Winter Hill being included.

Priscilla (Polly) Ulin, 1114 Sourwood, 1/24/06

“I think the idea of the whole neighborhood becoming a conservation district is right on.” Apologizes for being on the fringes. She and her husband spend a lot of the year in Maine. Has not heard anybody say they were opposed to it. Most everybody who has mentioned it has thought what was happening was fine, no big deal, she said.

Is fine with the proposed tree notification rule. Agrees that the viewsheds are valuable and would support regulation of tall opaque front yard fences. Would like to limit the size of houses . . . “I feel as if I’m not as good a spokesperson as I should be because of not being here year-round.”

Alan Stiven, 2 Spring Dell Ln., 1/24/06

He and his wife Emily Stout live in the former Bratcher (?) house on Spring Dell. They’ve only been here about a year. They love the neighborhood (though haven’t met many people). All in favor of preservation. Understands that the lot and setback restrictions would be no more restrictive than the covenants he has. Has no intention of even thinking about subdividing. Wanted to know what restrictions were being proposed. Was glad to know that if he wanted to add on, he would be no more restricted than he already was with covenants. I said I doubted there would be a square footage limitation placed lower than 5,000 sq. ft. if that; which was fine with him. On learning about the proposed tree notification, he understood the reasons and thought it was fine. On being asked to think about restricting big opaque fences in front yards, agrees. Is intrigued by the proposed approach of 50 percent opacity.

Marsha Jepsen, 515 Morgan Creek Rd. 1/24/06

Says I can speak for her and Tom. They support the basics: lot size and setbacks. They support inclusion of Winter Hill. They’ve talked about the tree notification and decided they are in favor. She says it seems unnecessary now because we all seem to have an understanding about the value of trees, but it might not always be this way as people don’t seem to have the same values about house construction and property. She says they definitely support a regulation against tall opaque fences. She liked the idea of keeping it OK to have “see-through fences.”

Vicki Booth, 100 Ashe St., 1/25/06

She was reluctant to tell me what she thought, but she said she had been thinking about it. She was persuaded by my telling her that I was a decisionmaker and really wanted to know what everybody thought. “I believe that this whole sustainable development thing is a big hoax and we really don’t see with understanding eyes what it means. It doesn’t matter, because I’m not sure what’s going on in the government and supreme court, but I

do believe that they are giving away private property rights because of fighting terrorism. Private property is a right that we have as an American to keep our own property and yet we have to do things in consideration of those around us, and it is good to have covenants, etc., but I do not like the idea of involving more government over our property. I don't see the need for it, but at the same time I realize it is happening all over the country. This is just the way I see it, and I just don't like the idea. I've heard every now and then and I see these communities who are being told OK you're going to have to sell all these houses because our government has decided this is what we want here. I'd like to just move out of this town, but because I care of what's happening all over the US and about us as individuals and about each person who has to sell their house so that someone can rebuild something and they are poor and cannot afford to buy another home . . . it just reeks. I may be wrong but I feel that this is some of the same stuff and we're not looking at it from afar. If you stood off and got more of a world view of it you would see that we are buying into that sort of an ordeal. Not only that, it's happening all over. Little by little it creeps in and we don't see it."

I asked her why she thought sustainable development was a hoax. "I haven't read a whole lot about sustainable development, but it's something that I think comes from the United Nations and it comes through our environmental thinking, worrying about the environment and trying to sustain life in a certain way for the good of all; and in the end it reeks of socialism. I haven't read that but in my own thinking, it reeks of socialism, and no longer do we have our individual rights, and we are selling ourselves out and don't even see it. We are so busy thinking our own little issues and are not seeing the big picture. I don't really know a whole lot, I'm not at all involved in the politics of this area, but I'm concerned that we aren't seeing the big picture."

I asked would she like to know more about what's proposed, and could I tell her. She said yes. She saw the rationale of getting the lot size and setbacks to match the covenants. She saw the rationale of the tree notification and restricting tall opaque fences. She said she would think about it. I told her about the Planning Board meeting and urged her to come, and I gave her my phone number.

LiddyBet Holsten, 912 Coker Dr., called 1/25, returned 1/26

"I'm a liberal and I believe in progress and change, when it's good change. I hate to sound like an old fuddy-duddy but we do have a neighborhood that we want to protect." She is in favor of essentially everything: lot size, setbacks, tree notification, tall opaque fence prevention. She said it seems people have a "what's mine is mine" attitude about their properties (re fencing particularly) that didn't used to be that way. She favors including Winter Hill.

Willis & Pat Brooks, 1018 Laurel Hill Rd. Ext., called 1/25, returned 1/26

Pat Brooks left a return phone message with a blanket “Yes we support the NCD.” I saw her again a few days later in town, and she told me the same thing. (I couldn’t get any more out of her!)

Arthur Anderson, 916 Coker Dr., 1/25/06

Said he had not really been informed about it, and hasn’t been paying attention, but would love to know more (which I told him). He thinks it’s a good idea. Will try to come to Thursday’s meeting. Understands and agrees with 0.6 lot size, 50/25 ft. setbacks. Agreed with notification on trees; brought issue of questions of liability when one tree comes down close to the property line. Also agrees that big opaque fences might not “make good neighbors” as Frost said.

Carol Miller, 413 Morgan Creek Rd., 1/25/06

Interviewed her in University Mall. She supports everything. Dearly wants to protect the neighborhood. Understands rationale for lot size and setbacks; agrees that tree notification would be helpful. Believes that big tall front yard fences “would completely change the neighborhood” and would support restriction.

John Pendergrass, 801 Coker Dr., 1/25/06

Has not followed the process a bit, but was very glad to hear about it. Did not know until I explained it to him that the covenant rules were more restrictive than the town’s. Strongly supports preserving the neighborhood and using the NCD to do it. Never got a notice, that he remembers, about the cottage meetings. Isn’t on neighborhood email list (I promised to add him). Has lived in the area a long time; bought his lot from the man on the corner; says the man (I’ve forgotten his name) is old and in poor health and so the house will probably be sold before too long; said it would just be a shame if it were subdivided. I had to go before I had time to ask about trees or fences or Winter Hill.

Greg Cordell, 500 Morgan Creek Rd., 1/26/06

“You know, Sally, that I come at this from the direction that if you buy your property and pay your taxes, then you ought to be able to do what you want. But there has to be a balance.” He supports the NCD, the lot size and setbacks. Would not support getting a permit to cut trees, but does support the notification proposal even if you have to wait 10 days. Can see how it might avoid problems. On fences, agrees that we want to prohibit tall opaque fences. Likes the idea of 50 percent opacity except he wants to make sure that it doesn’t prohibit low stone walls.

Nina Wallace, 808 Kings Mill, 1/26/06

Email response:

"Have seen nothing in the recommendations thus far that I would object to. I would like to see a much greater set back between lots. (Both my neighbors built exactly up to the 25 ft. - and it's close!)

"Trees. Yes, please have the recommendation stand about notifying neighbors. My neighbor, Mr. Markunas, cut 20 trees from his lot (said it was beetles, but did he get a 2nd opinion? and did he need to cut so many?), he finally cleared the fallen brush after my strenuous objections to the town, but has left the fallen trunks lying where they fell. This is a sad sight indeed.

"I would hope the Winter Drive group would be a part of the NCD, but if the majority of residents in this enclave oppose it, I would suggest council carefully consider their wishes.

"Fencing is such a visual thing - so much variety its hard to say if one would hate the neighbor's fence or love it. I certainly think the sight lines - as you mention - should not be disturbed (except for pools). My neighbors in the former Gallman house have a really beautiful low iron fence around their back yard.

"If it were up to me, I would say no front-side fencing."

Bob Hale, 803 Coker Dr., 1/26/06

I gave him a summary of last night's meeting. He had read the report and already supported everything in it. He supports regulation of tall opaque fences in addition. He loves the trees and agrees any measure of protection is good. He has no opinion about Winter Drive; says all he knows about it is that he drives by it occasionally.

Connie Margolin, 908 Kings Mill, 1/26/06

Would have come to the meeting last night but was at the Galinsky house, grieving. Strongly supports the NCD idea and the current recommendations. We talked about Meadow/Winter; she supports inclusion. I didn't get a chance to ask specifically about fencing (we mostly talked about Maeda's needs).

Doug MacLean & Susan Wolf, 510 Hawthorne Ln.
Email to Roger, copied to me, 01/26/06

Dear Roger Waldon,

I am a resident of the Morgan Creek neighborhood. My wife, Susan Wolf, and I bought our house on Hawthorne Lane three and a half years ago, when we moved to Chapel Hill from Baltimore. We share the concerns of most our neighbors about the future, and so we're very interested in the proposal that would make Morgan Creek a Neighborhood Conservation District. Susan and I are currently spending a research leave in Australia, so we are unable to attend the meetings to discuss this proposal. I would like to express my views, however, and Sally Greene suggested that I should write to you.

We are concerned about the impact of growth on our neighborhood, and we are also concerned about the value of our home as our neighborhood changes. Like many of our neighbors, our home and property are by far our most valuable asset, and I have both a self-interested and a moral interest in protecting individual property rights.

But we chose to buy our house on Hawthorne Lane in part because of the unique feel of the Morgan Creek neighborhood. In the three and a half years that we have been here, we feel that the physical and social quality of our neighborhood is a huge boost to our overall quality of life. This is due to the natural beauty of the neighborhood. The houses are nicely set in the woods, which are shaped by the ravines and the creek. The woods give us a sense of privacy, and the unfenced lots enhance the feeling of community. The botanical gardens on one end and the meadow on the other add to this special open but wooded feel, and this unique feel of the neighborhood is immediately evident to friends who visit us. It also makes us friendlier to our neighbors and them to us. The neighborhood adds immensely to our overall quality of life. All of this is in large part what makes us glad we moved here from Maryland.

When we were shopping for houses in Chapel Hill in 2002, we were depressed by much of what we saw, and these reactions came as much from the soul-less neighborhoods looked at as from the individual houses we were shown. Many of these neighborhoods, where house prices are high, were obviously created by developers without much contribution from those who would own the homes and live there.

The problem is that the quality of a neighborhood is a social asset, while the value of one's property is an individual good. All too often it is hard for irreducibly social goods to get their value registered properly in market systems. This is the classic lesson of the "Tragedy of the Commons." As individuals rationally pursue their own good, the overall result can become worse for each of them. This is the reason we think we need the stronger protection that the NCD process would provide.

As I understand it, the NCD would not prohibit any changes or improvements, but it would give some force to agreed-upon constraints and covenants that we see as necessary to protect the common good of our neighborhood. We think most of us can live with the opportunity costs that these restrictions might impose on us individually. And we can gain the added benefits from feeling that we belong to a strong community of neighbors who love the natural beauty of Morgan Creek. We don't know all our neighbors, of course, but most of the people we know love this neighborhood as we do and are

concerned that its soul remain intact.

I'd like also to make a comment on one particular point that has been raised in some discussions of the NCD proposal, viz., whether the homes on Meadow and Winter Lanes should be included in the NCD as part of the Morgan Creek neighborhood. It seems to me that they obviously should be included, and that our discussions about the NCD proposal and about any subsequent neighborhood covenants should include the residents of those streets. The meadow is a natural part of the neighborhood, and those houses join the meadow. They form a small wedge between the meadow and the rest of the neighborhood, and we use walkways through each other's property when we are out for a stroll or looking at birds and flowers.

Thank you for your attention.

Sincerely yours,
Douglas MacLean

Edward Jackem, 916 Kings Mill Rd., 1/28/06

Asked him what he thinks of the NCD idea generally. He said "It's a double edged sword." It's good for preserving things we like about the neighborhood "but I don't like anybody telling me how I can redesign my house." I assured him that that would not happen. I went point by point through what's being proposed. Starting with the lot size and a discussion of the Bob Page situation. He had heard of that and agreed it was bad for the neighborhood, the lot size discrepancy. Ditto setbacks. He says the houses on Botanical Way look like they're on smaller lots than most. I pointed out that it's because of the size of the houses and the shape of the lots. Those houses are 50 ft. apart, because they do comply with the covenant's 25 ft. side setbacks. (Most houses in the neighborhood are well more than 25 ft. from the side property lines.) When I said the town's setbacks would have allowed them even closer together, he said wow, that would be like Southern Village. About the floor area ratio, he said 0.2 was really high and agreed that it would not prohibit anything he could imagine doing with his own house.

I went in detail through every proposed item, including the size of the trees involved in the tree notification. [Note: I thought, at the time, it was 18 in. for most trees and 12 in. for some, per LUMO definitions; what is proposed now is 24 in.] While he would not want anybody to tell him he couldn't cut a tree, he said the notification provision sounded "reasonable." He also said that the proposed fence regulation is reasonable. He supports the inclusion of Meadow/Winter.

Hope Shand & Charlie Thompson, 1122 Sourwood, 01/29/06

I called and emailed them to ask them to call me. In response, an email from Hope: "thanks for all your hard work on behalf of our neighborhood and the town of CH."

(51)

Marianna Crane, 803 Spring Dell Ln., 01/30/06

Has been reading the materials though hasn't been at the meetings. Thinks it's all fine. Wasn't clear on the tree notification proposal but when I explained it she said it made sense. She doesn't have a feeling one way or the other about Meadow/Winter. She seemed to want to get off the phone (to deal with her flying squirrel problem!), so I stopped there and didn't ask about fences.

Carol Baer, 2 Bartram Dr., 01/30/06

Appreciated being consulted and said "you can vote how you want to," but she believes in density and doesn't see the reason to preserve low density.

Anna Can; 915 Coker Dr., 01/30/06

Has followed the process in the mailings and on email. Is fine with everything. I went through it all in detail including floor area ratios, which she said seemed plenty high. Fine with tree notification and fencing. Can see both sides of McPhaul's request and does not have a position.

Margaret King, 1110 Sourwood Dr., 01/30/06

They are soon to be moving to Carolina Meadows, but she said they have been following the mailings and the emails and they both support everything we are doing to conserve the neighborhood. "Can I just leave it at that?" she asked.

Betty Maulsby, 1111 Sourwood Cir., 01/30/06

Has serious concerns about the process. Thinks it's impossible to judge consensus when the same few show up at meetings a month apart. I told her that's why I was calling. I went point by point through what's proposed. She understood the rationale for and agreed with all, except the inclusion of Winter Hill. She does not support that. She would not support a limit on the number of "unrelated persons" on principle. She thinks the floor area ratio ought to be high enough to let people have home offices.

Victoria Brawley, ____ Sourwood, 11/30/06 [she lives on Greenwood Rd.]

"I think it's critical to protect these neighborhoods." The NCD "is a great opportunity." She was at the meeting the other night, and she supports all of the proposals that were

presented. She's especially interested in trees and viewsheds. (And would support continued flag lots in Greenwood, because they are not inconsistent with viewsheds from the street, but that's not our issue.) Says "there's no question" that Winter Hill should be included. Since this is a rental house I should have asked her about the rental issue, but I forgot.

David & Constance Freeman, 101 Ashe Pl., 01/30/06

These are notes from talking with both of them together on the phone:

We've haven't followed it closely but have a pretty good idea. Planning to move to Carolina Meadows. "We both feel very strongly that we would like to have our house owned by a family with kids so it's a real home, so we are very much supportive of the conservation district."

I went item by item through the proposed restrictions. Lot size, and setbacks, great. Floor area ratio, not low enough; "you should just grandfather the really big houses." Fences, good but maybe not restrictive enough. Trees notification, fine "but would be happy if it were more restrictive." Concerned about rental issues but not sure how to solve it. They have an office that could be an apartment. They support Winter Hill being included.

Joe & Helen Perlmutter, 624 Morgan Creek Rd., 01/31/06

I had a long conversation with Joe, with Helen listening on the other phone. They don't go out at night, so they haven't been at any meetings. From the mailings that have gone out, and from other things they've heard, he was under the impression that a lot of things were on the table that are not: like what color you can paint your house. He was concerned that lots of things were about to be put into place that were not asked for in the petition. I told him that the petition started a process, a conversation, but that the conversation isn't over and that very few things now are still proposed. He did not realize that if our lot size minimum were bigger, then the neighborhood would not have had to spend thousands of dollars suing Bob Page. I believe he agreed that we want to prevent the possibility of subdivision. He brought up the Greenwood minor subdivision example as an example of what shouldn't be allowed. He understood the rationale of getting the lot size and setbacks close enough between the town's and the covenants' so that you wouldn't have another Bob Page situation. His lot is 2 acres. So we talked about how somebody could under a 0.6 minimum get two lots out of it, but that the covenants (which say the lot can't be resubdivided) would kick in and could be used to stop it. He understood about how if the minimum were more than 0.6, there would be a lot more lots that would not comply and might seem troublesome (though I also tried to explain to him how everything would be grandfathered as it currently is). I talked about tree notification. I talked about front yard tall opaque fencing. I did not ask what he thought on the Winter Hill issue. I told him I hoped all this information about what is, and is not, being proposed was helpful, and left it at that.

Vici Cook, 640 Morgan Creek Rd., 02/01/06

She wasn't sure what all was being proposed right now. She wouldn't want anybody telling her she couldn't put a sculpture in her yard! Which was one thing she had heard. I went through everything on the table. She wants to keep the floor area ratio pretty high, to make sure the Creekside houses can be built as planned, and because people want big houses. She doesn't mind the thought of people adding on to their houses. But she does want to protect our generous lot sizes because she says the land, itself, has value, a different kind of value from say a Southern Village kind of neighborhood—but real value. She thinks that from a real estate point of view, the NCD is a good thing for the neighborhood. (Vici is a Realtor, an owner of The Home Team.) She is fine with the tree notification. She really likes the anti-tall front yard, fence rule. She says that although it hasn't happened in our neighborhood, it easily could: "it happens in the strangest places." She could go either way about Winter Hill.

Sarah Donovan, 1102 Sourwood, 02/02/06

They moved here about in time to sign the petition, and she's on the email list. Has three kids so hasn't been out to meetings. Is fine with lot size and setbacks. But said she's "kind of a libertarian." Would not want to regulate tree cutting, but is fine with the notification procedure as proposed, if it would potentially save somebody from having their neighbor cut a tree on their property. Personally doesn't like big houses but is reluctant to tell somebody they can't have one, so she's fine with 0.2 or whatever is worked out. Can go either way on the fence issue. No strong feeling on the Winter/Meadow issue since she didn't even know about it and doesn't have a clear sense of the properties involved. Would support going with the majority of owners, but if that's split, she isn't sure.

She's more concerned about the rental issue than anything. "If there's too many people in the neighborhood that means more traffic, . . . it just makes me nervous, and I do see the potential for that because of the university being so close." She mentioned a house near her that till recently had been rented out, trashy pizza boxes etc., but now it has sold to a family. She likes the idea of limiting the number of people in a house but she understands the enforcement issue. Not too keen on parking restrictions or bathroom ratios.

Debbie Day, 02/06/06

Interviewed in Weaver St. Market. She was at the last meeting at the Botanical Garden, and she is fine with everything, but she wishes the floor area ratio were even lower. She can't imagine why anybody has to have a house larger than 5,000 sq. ft "unless they have 20 kids." She said she's not interested in having the ability to make the absolute most

money out of her property. She moved here quite recently; she says she's here for the long haul.

Lou Bright, 1103 Sourwood, 02/09/06

She signed the petition but couldn't remember what mailbox she was told to return it to, so she never did, and no one followed up. She didn't know very much about what was being proposed. She isn't on the neighborhood listserv and currently doesn't have her own email address. We really spoke only in very general terms. I told her about the Bob Page lawsuit. Other than lot size and setbacks, I did not have a chance to go into details. She said, "I feel like that this is a unique neighborhood in that it is wooded, and most people have fairly big lots . . . and for wildlife, we have a lot, deer (I sometimes come home at night to see five deer in my yard), we have raccoons, possums, we have all kinds of birds, . . . so I really think it's a specifically unique neighborhood, according to a lot of the newly developed neighborhoods where they go in and whack down the trees. Not that I would be against anybody using all their land, but I feel like it is a unique neighborhood that needs to be kept like it is and not made like all these other neighborhoods."

Sandy Clark, 411 Morgan Creek Rd. 02/17/06

Interviewed on the street. Supports everything currently being proposed, including fence restrictions. Strongly supports Winter Hill being included, especially knowing that the Tenneys and Smiths want to be included.

Sally Sharp, 1113 Sourwood

Sally has emailed me several times in support of the NCD, beginning on Sept. 29, 2005: "I'm all for the NCD proposal, as are most of my neighbors around here." She went on to say in that note that she could not come to the first neighborhood meeting because of a recent surgery. On Oct. 4 she wrote, "Am glad the NCD meeting went well - I'll talk it up - but almost everyone around here is in favor of it anyway." She has had continuing health problems but has remained supportive.

Marvin Rauchbach, 900 Kings Mill Rd. 02/18/06

They are about to put their house on the market and move to Old Lystra Rd. He has no comment because they haven't really thought about it.

Jan Schroeder, 703 Morgan Creek Rd., 02/18/06

“I don’t have a strong opinion; I think it’s good and important that everybody is exchanging opinions and having ideas.” He had not yet read the report that’s going to the Planning Board, but he is on the email list and said he would look at it and check his schedule for Tuesday night. I asked him if, in general, he favored the direction things were moving in, and he said, “I think so, yes.”

Tom Massengale, 904 Kings Mill Rd., 933-2909, called 02/18/06

I caught Tom with a really bad cold; he said it was day 8 of what was supposed to be a 10 day cold. He said “thanks for all your work” on NCD and Council but asked me to call back next week sometime.

Jeanne van Gemert, 1120 Sourwood, 02/18/06

She went to the first meeting and thought everything sounded really great, so she didn’t go to the others. Thought the whole NCD concept was “a no-brainer.” Was surprised when I said that there had been some concern about the level of support. Said she had been following the process via email and the regular mail and that the recommendations “so far look good to me.” But she hasn’t studied on the latest memo to the Planning Board. She promised to do that and email me with her thoughts. She said she’d make an effort to get to the Planning Board on Tuesday.

Shortly after this conversation, she emailed me: “Thank you for your call about the NCD today. I did read the report, found it balanced and thorough, and will try to be there at 7 p.m. on Tuesday night.”

Mr & Mrs. Roy Ingram, 601 Oteys Rd., 02/18/06

I spoke with Mrs. Ingram. When I told her who I was and that I wanted to know her thoughts on the NCD process, she said “First, don’t worry.” She thinks it’s a great idea. She said she had been following it but they don’t go to meetings. I said, do I take it that you think things are going in the right direction? She said yes, she did, and she was following it. That seemed to be all she wanted to say.

Linda & Jack Evanko, 811 Kings Mill Rd., 02/18/06

Spoke to Linda. She has not been to any meetings but has been following the process. She wanted to make sure that the 2 stories plus attic would not count her walk-out basement; I clarified that. She is fine with a 6,000 sq. ft. maximum house size but would want it to be not less than that. (I said 6,000, then later realized what is recommended is 6,500.) She thinks the fence regulation is fine. She thinks her front yard parking is about 25 percent so she wouldn’t want it any lower. Lot size and setbacks are fine. Where she

does not agree is with the notifications for building permit expansions or for tree cutting. She wouldn't want to have to tell her neighbors about either. "I think that I should be able not necessarily to clear-cut or timber, but I do think that if I need to cut a tree, I should be able to." She understands that rental is an issue but she would not want to limit "unrelated persons."

Ann Harrawood, 906 Shady Ln., 02/18/06

She is not on email at home, but she has been reading the information from Clarion in the mail and she supports the process. I walked her through every item in the Planning Board memo. She thinks the house size and floor area ratio are plenty big (would probably support lower; again what I reported was 6,000 when really it's 6,500); fine with lot size and setbacks and the two stories/attic rule; approves of the proposed fence rule; but has a problem with the 25 percent front yard parking. If you look at how her lot is shaped, you can see why. She is at the end of Shady Ln., just has a kind of stub-out to the street. What is 25 percent of that? She asks me to pose that question. She is fine with the ZCP and tree cutting notification.

Suzanne Brown, 902 Woodbine, 02/19/06

A new neighbor, bought the house about two years ago after a year-long search for "the house I wanted in the neighborhood I wanted." She lives alone in the former McLendon house, a big house at the corner of Woodbine and Coker. She is the director of a volunteer charity so she has "a lot of people coming and going"; "I have a lot of company, I entertain a good bit." She is also an architectural designer. "The house is quaint and wonderful, not the type to appeal to everybody," but it appealed to her (even being close to the highway appealed to her, though she thinks 15-501 is louder now than it was when she was looking at houses, and she had to call the police once after nearly being run over by somebody doing a cut-through beside her house). She is not on the neighborhood listserv and doesn't want to be because she shares it with her volunteer charity. But she is following the process through the mailings she's gotten, and she's very supportive. "I am very much wanting to keep the continuity and integrity of the neighborhood, in terms of what is allowed and isn't allowed." She said she hasn't met many neighbors, said that because of her schedule she hasn't been able to go to potlucks or other neighborhood things. She was eager to get off the phone because she was about to do some entertaining, but she wanted me to know that she does support conserving the neighborhood.

Debbie Drossman, 901 Kings Mill, 02/19/06

Has been on and then off and now back on the neighborhood listserv, so has not been following the process very closely. I walked her through the items in the PB memo. She is fine with lot size, setbacks, 6,500 sq. ft. size limit combined with floor area ratio. She

wonders if the 25 percent parking rule is going to cause some people problems (not a problem for her she thinks). She is not at all sure about the fence rule. She is opposed to both of the notification requirements. She thinks there is a certain amount of “autonomy” that goes with home ownership that needs to be preserved. She was curious about the viability of restricting “unrelated persons.”

Scott Madry, 402 Morgan Creek Rd., 02/19/06

Say he’s “very much in favor” of the NCD. He’s followed all of the iterations of the plans on email and approves of what’s now proposed. “All in all, the whole package is very important given what we’re facing” as a neighborhood, he said. But his “primary concern” is for “the inclusion of Winter Drive.” He is very concerned about the type and scale of development that could happen there right behind his house. He believes it is a logical extension of our neighborhood, a part of the neighborhood, and that the same rules should apply. He apologizes for not being able to be at the Planning Board meeting to say this in person, and for not being at any of the neighborhood meetings. His work schedule has him traveling a lot. (He did have a meeting with Leigh Anne of Clarion and told her his concerns directly.) Though he hasn’t been at meetings, he’s very supportive of the process.

Mattie Wardsworth, 701 Coker, 02/19/06

Is not on listserv, but has been reading and following the Clarion mailings. She was interested in hearing specifics. I stepped her through everything in the Planning Board memo, and she supports all of them.

Nina Sessions, 700 Morgan Creek Rd., 02/19/06

Nina is still grieving over the loss of her husband. It was apparent that she didn’t want to stay on the phone for very long. She told me she very much supports the NCD process, but it was clear that she didn’t care to get into the details.

Ellen Johnson, 902 Kings Mill, 02/20/06

Is “very much in favor” of the NCD. Had not been able to go to most meetings, but did go to a board meeting where Clarion presented. Thinks a 6,500 maximum house size is too big; if we’re about preserving the character of the neighborhood, then that is “out of character.” But she’s not upset about that enough not to go along with it. She has been following the process and she generally approves. I asked her particularly about the front yard fence restriction, and she agreed that the proposed rule was a good one.

Jim Gooch's comments are relevant to the story of how Winter Hill has ended up not within the annexed areas of the town.

Jim Gooch, 405 Morgan Creek Rd., 1/22/06

I asked Jim to tell me (again) the story of the annexation of the neighborhood (c. 1969) and how the pasture and Winter Hill got left out. The town's first proposed annexation line extended all the way to Morgan Creek, including Merritt's Pasture and Winter Hill. Drawing the line there conformed with the part of the involuntary annexation statute, N.C.G.S. § 160A-48, that said, "In fixing new municipal boundaries, a municipal governing board shall, wherever practical, use natural topographic features such as ridge lines and streams and creeks as boundaries. . . ."

"Eben Merritt owned the pasture. The idea was, we hired an attorney, John Manning. Tim Thomas and I headed the group to thwart annexation because we weren't ready and we felt the town wasn't either in terms of providing services. The pasture came in, and Merritt was the largest single largest land owner; he said no. He found a legal argument, too: the density wasn't great enough [under the annexation statute] when you included the pasture. . . . Winter Drive had been thrown in as part of it. The line was redrawn to leave out the pasture. I am not sure why Winter Hill was left out."

"I absolutely agree that Winter Hill should be part of the NCD. I support and appreciate everything you are trying to do to support the neighborhood. If I were younger, I'd be making phone calls with you."

Though Jim was unsure why Winter Hill was left out of the annexation, the statute suggests the reason. The complete sentence above, from the statute, reads, "In fixing new municipal boundaries, a municipal governing board shall, wherever practical, use natural topographic features such as ridge lines and streams and creeks as boundaries, *and may use streets as boundaries.*" Under the statute, a city can decline to follow the natural topography when by doing so, another requirement (such as density) would not be met. See *Matheson v. Asheville*, 102 N.C. App. 156 (1991). It appears that the town, unable to annex the pasture, fell back to the next legal option, which was to draw the line along Morgan Creek Road (the short street and easements on Winter Hill not being much of a "street" for this purpose).

Winter Hill and the pasture show up every year on the Council's list of areas within the ETJ "scheduled for annexation," together with the residential areas in the Reserve etc. on the other side of the creek (see URL below), but the difficulty is the Town policy that prevents annexations of areas that are not served by sewer, which Winter Hill is not. Neither is about half of the Kings Mill-Morgan Creek neighborhood, but the Town didn't have that rule in 1969.

[http://townhall.townofchapelhill.org/agendas/ca051121/4i/a-resolution_identifying_areas_under_consideration_for_possible_future_annexation\(parta\)final.htm](http://townhall.townofchapelhill.org/agendas/ca051121/4i/a-resolution_identifying_areas_under_consideration_for_possible_future_annexation(parta)final.htm)