



**Protest Petition Evaluation
Proposed Zoning Atlas Amendment
to Rezone the Residences at Grove Park Development
from R-4 and R-6 to R-HD3-C
March 6, 2008**

Sabrina Oliver
Chapel Hill Town Clerk
Town of Chapel Hill, N.C.

Sabrina:

I have evaluated the protest petition regarding the proposed Zoning Atlas Amendment to rezone the Residences at Grove Park Development from R-4 and R-6 to R-HD3-C. You certified receipt of this protest petition on March 3, 2008.

This petition is valid and sufficient under State Law G.S. 160A-385 by having the signature of the official authorized by a company having ownership of 5% or more of the land area within the 100-foot-wide buffer extending along the entire boundary of the area proposed to be rezoned.

My finding is that an owner of 22.9% of the land area contained within this 100-foot-wide buffer area has signed the petition.

Scott W. Simmons
Senior Planning Graphics Specialist
Chapel Hill Planning
March 6, 2008



Town of Chapel Hill
405 Martin Luther King Jr. Blvd.
Chapel Hill, NC 27514

Communications and Public Affairs Department (Town Clerk)

(919) 968-2743

Planning Department (919) 968-2728

www.townofchapelhill.org

PROTEST PETITION CONCERNING PROPOSED REZONING OF LAND

4.4.2 Procedures

*Excerpt from
Land Use Management Ordinance
Chapel Hill, North Carolina*

(i) Protest Petition

A petition protesting a proposed amendment shall be subject to the provisions of North Carolina General Statutes Sections 160A-385 and 386, as may be amended from time to time. Any petition shall:

- (1) be in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed amendment;
- (2) be received by the Town Clerk at least two (2) normal work days prior to the date established for the public hearing on the proposed amendment; and
- (3) be on a form prescribed and provided by the Town Manager and contain all the information requested on the form.

PROTEST PETITION CONCERNING PROPOSED REZONING OF LAND

- I. Description of property proposed to be rezoned and the proposed zone(s) being protested.
- II. Names and signatures of property owners.
- III. Date and time of receipt by Town Clerk (Clerk's Certification).
- IV. Information on requirements for validity of protest petitions under State law and the Chapel Hill Land Use Management Ordinance.

I. DESCRIPTION OF PROPERTY PROPOSED TO BE REZONED:

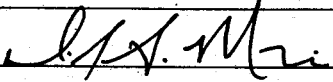
Note: Either Parcel Identifier Number (PIN) or Tax map ,Block and Lot (TMBL) information is required.

To get Parcel Identifier Number (PIN) or Tax Map, Block, and Lot (TMBL) information, please call, email or visit the Planning Department (405 Martin Luther King Jr. Blvd., Chapel Hill, NC 27514); 3rd Floor of Chapel Hill Town Hall next to the Fire Station, (919) 968-2728.

<u>Name of Area Proposed to be Rezoned</u>	<u>Parcel Identifier Number (PIN)</u>	<u>or</u>	<u>Tax Map, Block, Lot (TMBL)</u>	<u>Proposed Zoning District(s) Protested</u>
<u>Residences at Grove Park</u>	<u>9788-39-4841</u>			<u>R-HD3-C</u>
<u>Residences at Grove Park</u>	<u>9788-39-4857</u>			<u>R-HD3-C</u>
<u>Residences at Grove Park</u>	<u>9788-49-1706</u>			<u>R-HD3-C</u>
<u>Residences at Grove Park</u>	<u>9788-49-4924</u>			<u>R-HD3-C</u>

(Please attach additional sheets if necessary.)

PROTEST PETITION CONCERNING PROPOSED REZONING OF LAND

<u>Name (print)</u>	<u>Signature</u>	<u>Date Signed</u>	<u>Property Owned: Parcel Identifier Number (PIN) or Tax Map, Block, Lot (TMBL)</u>	<u>Proposed Zoning District(s) Protested</u>
Northampton Terrace Investors LLC		2/27/08	PIN 9788-49-1242	R-HD3-C
By: DSM Asset Management, Inc.				
By: David S. Morris				
Title: President				

III. TOWN CLERK'S CERTIFICATION OF RECEIPT OF PROTEST PETITION:

I hereby certify that I received this protest petition on March 3, 2008 at 9:15 A.M.
 (Date of Receipt) (Time of Day)



 Town Clerk

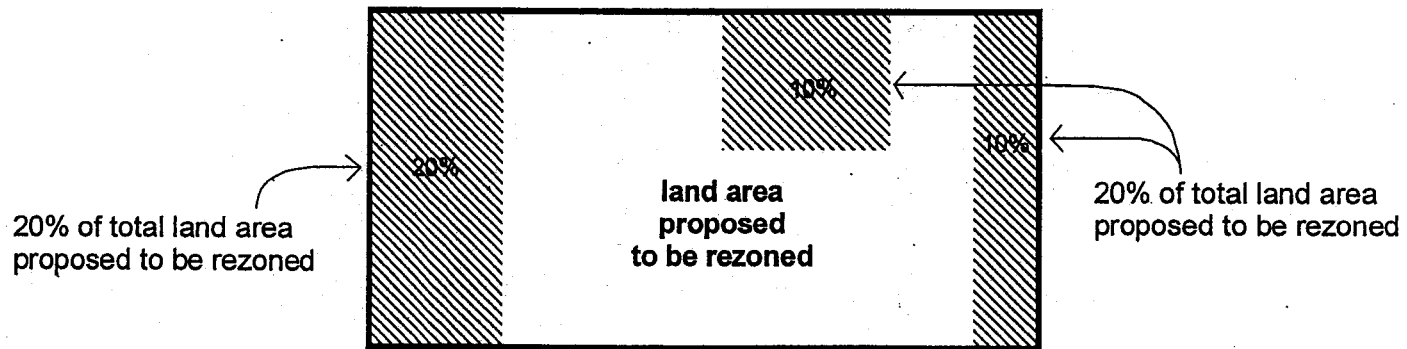
IV. INFORMATION ON REQUIREMENTS FOR PROTEST PETITIONS

- A. Introduction:** North Carolina law and Chapel Hill zoning regulations allow citizens to formally protest zoning actions. When the criteria described below are met, protest petitions alter the requisite vote necessary to enact zoning regulations.
- B. Deadline for Submittal:** To be valid under State Law, a protest petition must be received by the Town Clerk (405 Martin Luther King Jr. Blvd., Chapel Hill, N.C. 27514) at least two normal work days (excluding Saturdays, Sundays and legal holidays) before the date established for a public hearing. For example, the Town Clerk must receive your protest petition by 5 p.m. of the Wednesday before the date established for a public hearing on a Monday, if the Thursday, Friday and Monday are not holidays.
- C. Signature Requirements for a Valid Protest Petition:** If a partnership or corporation wishes to protest a rezoning, it should consult the Town Clerk well in advance of the protest petition deadline concerning proper signature. Generally, when there are co-owners (including husband and wife), **each individually** must sign. If a corporation wishes to protest, the person signing must be authorized by the Board of Directors and evidence of such authorization (such as a Certified Resolution) must be attached to the protest petition. If a protest petition is signed by a person with power of attorney for someone else, evidence of the power of attorney must be included with the petition. Photo copies or faxes of signatures are not acceptable as valid signatures.
- D. Requirements for an Effective Protest Petition:** The requirements for an effective protest petition include having signatures (see C above) of owners of either:
- Twenty percent (20%) of the land area proposed to be rezoned, or
 - Five percent (5%) of a 100-foot-wide buffer extending along the entire boundary of each discrete or separate area proposed to be rezoned. A street right-of-way shall not be considered in computing the 100-foot buffer area as long as that street right-of-way is 100 feet wide or less. When less than an entire parcel of land is subject to the proposed zoning map amendment, the 100-foot buffer shall be measured from the property line of that parcel. In the absence of evidence to the contrary, the city may rely on the county tax listing to determine the 'owners' of potentially qualifying areas.

Please refer to the attached illustrative diagrams.

Illustrative Diagram I

Requirements for an Effective Protest Petition by Owners of Land Proposed to be Rezoned



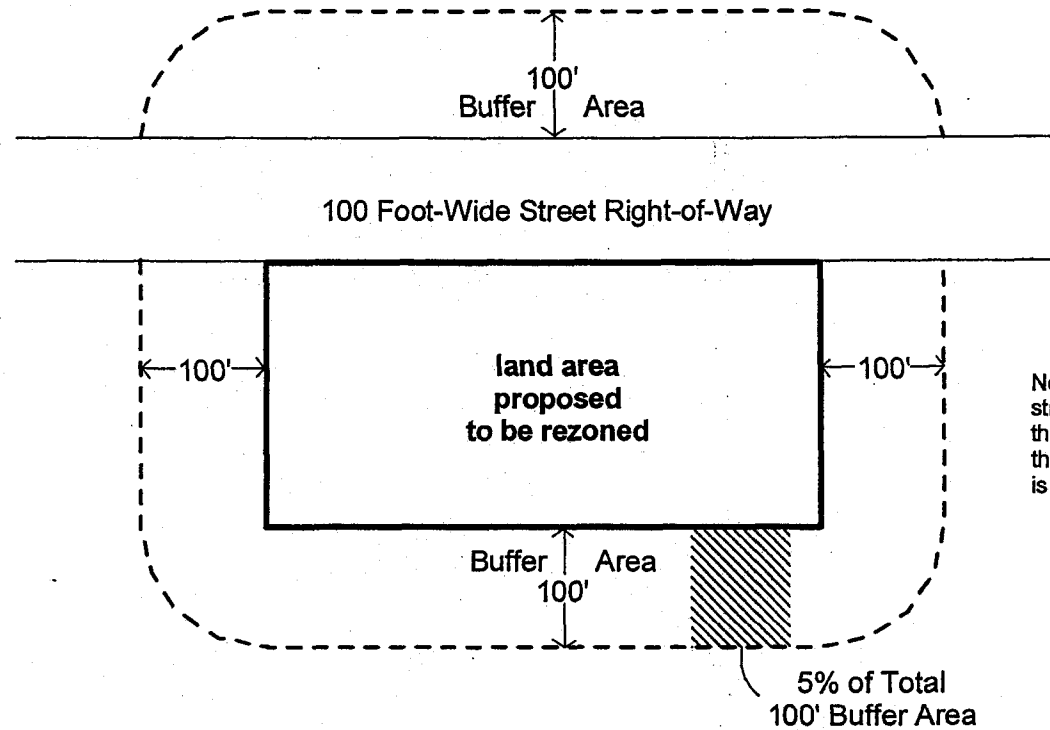
In order to trigger a Town Council three-fourths vote for approval:

An effective protest petition needs the signatures of owners of at least 20% of the land area proposed to be rezoned.

Note: Individual lot lines are not shown in diagram.

January 1, 2006
Diagram by Chapel Hill
Planning Department

Illustrative Diagram II
Requirements for an Effective Protest Petition by Neighboring Owners
to Land Proposed to be Rezoned



Note: If there are other street right-of-ways abutting the area to be rezoned, the 100 foot-wide buffer is adjusted to them also.

In order to trigger a Town Council three-fourths vote for approval:

An effective protest petition needs the signatures of owners of at least 5% of the land area within a 100-foot wide buffer extending along the entire boundary of each discrete or separate area proposed to be rezoned.

Note: Individual lot lines are not shown in diagram.

January 1, 2006
Diagram by Chapel Hill
Planning Department

GENERAL CERTIFICATE
OF
NORTHAMPTON TERRACE INVESTORS LLC

I, KENNETH L. EAGLE, hereby certify that I am a member of NORTHAMPTON TERRACE INVESTORS LLC, a limited liability company organized and existing under the laws of the State of North Carolina (the "Company"), and that, on behalf such Company, I have custody and control of, or ready access to, the books and records of the Company, and that I am authorized to execute this Certificate on behalf of the Company.

I further certify that:

(1) Attached hereto is **Exhibit A** is a true and correct copy of resolutions of the Company effective February 27, 2008 authorizing the Company to file a protest petition in connection with the re-zoning of the Town House Apartments located in Chapel Hill, Orange County, North Carolina:

(2) The persons designated by the resolutions of the Company attached hereto have been authorized to execute, attest, acknowledge and deliver under seal of the Company any and all necessary or desirable documents in connection with the Agreement and to sign certificates and effect other transactions contemplated thereby.

IN WITNESS WHEREOF, I hereunto set my hand this 27th day of February, 2008.

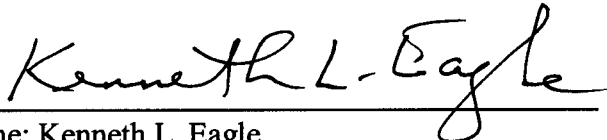
By: 
Name: Kenneth L. Eagle
Title: Member

Exhibit A
PROTEST PETITION

WHEREAS, Northampton Terrace Investors LLC (the "Company") owns improved real property in the Town of Chapel Hill, North Carolina, adjacent to real property commonly known as the Town House Apartments with respect to which there has been filed with the Town of Chapel Hill a re-zoning petition pursuant to which such property would be redeveloped as a condominium and town house project to be know as the Residences at Grove Park, which redevelopment will include a substantial increase in the density of use of such property ; and,

WHEREAS, individual persons living at the Town House Apartments property routinely have trespassed upon the adjacent property of the Company, including destroying fences erected by the Company to preclude such trespassing, in a manner likely to result in personal injury or death and until the proponent of the proposed re-zoning is agreeable to constructing and maintaining a fence to preclude such continued trespassing the Company desires to oppose the re-zoning petition.

NOW, THEREFORE, IT IS HEREBY RESOLVED, that until such time as the Company shall receive adequate assurances from the proponent of such re-zoning that the proposed redevelopment of the Town House Apartment property will not have a material adverse impact on the value of the adjacent property of the Company by agreeing to construct and maintain a fence along the common border, the Company shall file and maintain a protest petition with respect to such re-zoning.

RESOLVED FURTHER, that the Company hereby approves the form of the protest petition submitted by the Manager of the Company and authorizes David S. Morris, as President of DSM Asset Management, Inc., the Manager of the Company, to take any and all steps which, in his judgment, are necessary or desirable to cause the Company to protest the proposed re-zoning of the Residences at Grove Park (aka Town House Apartments) and further authorize David S. Morris, as President of the Manager, in the name and for and on behalf of the Manager and the Company to execute, attest, acknowledge and deliver the protest petition, with any changes therein or additions thereto as may be approved by David S. Morris as conclusively evidenced by his execution and delivery thereof; and,

RESOLVED FURTHER, that upon satisfaction of David S. Morris that the concerns of the Company as described above have been resolved by a legally binding agreement between the Company and the proponent of such re-zoning, David S. Morris, as President of the Manager, and on behalf of the Manager and the Company shall have the right to withdrawal the protest petition.