

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 SID, William Lanier Hunt SID, Morgan Creek S/D, Morgan Bluff S/D, Morgan Bend S/D, Creekside SID and Winter Hill SID. 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

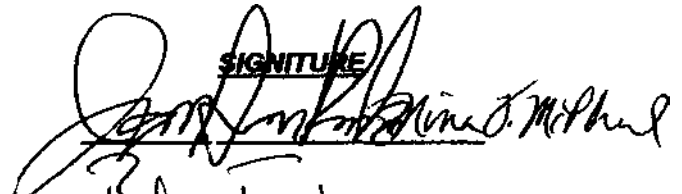
LOT #

Lot 1,2 & 5

OWNER NAME

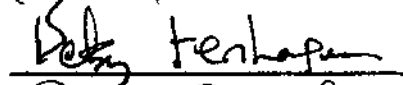
John & Nina McPhaul

SIGNATURE



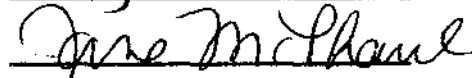
Lot 3

Betsy Fenhagen



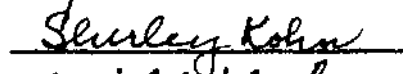
Lot 4

Jane McPhaul



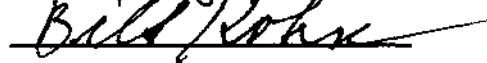
Lot 6

Bill & Shirley Kohn



Lot 7

Walter & Mary Smith

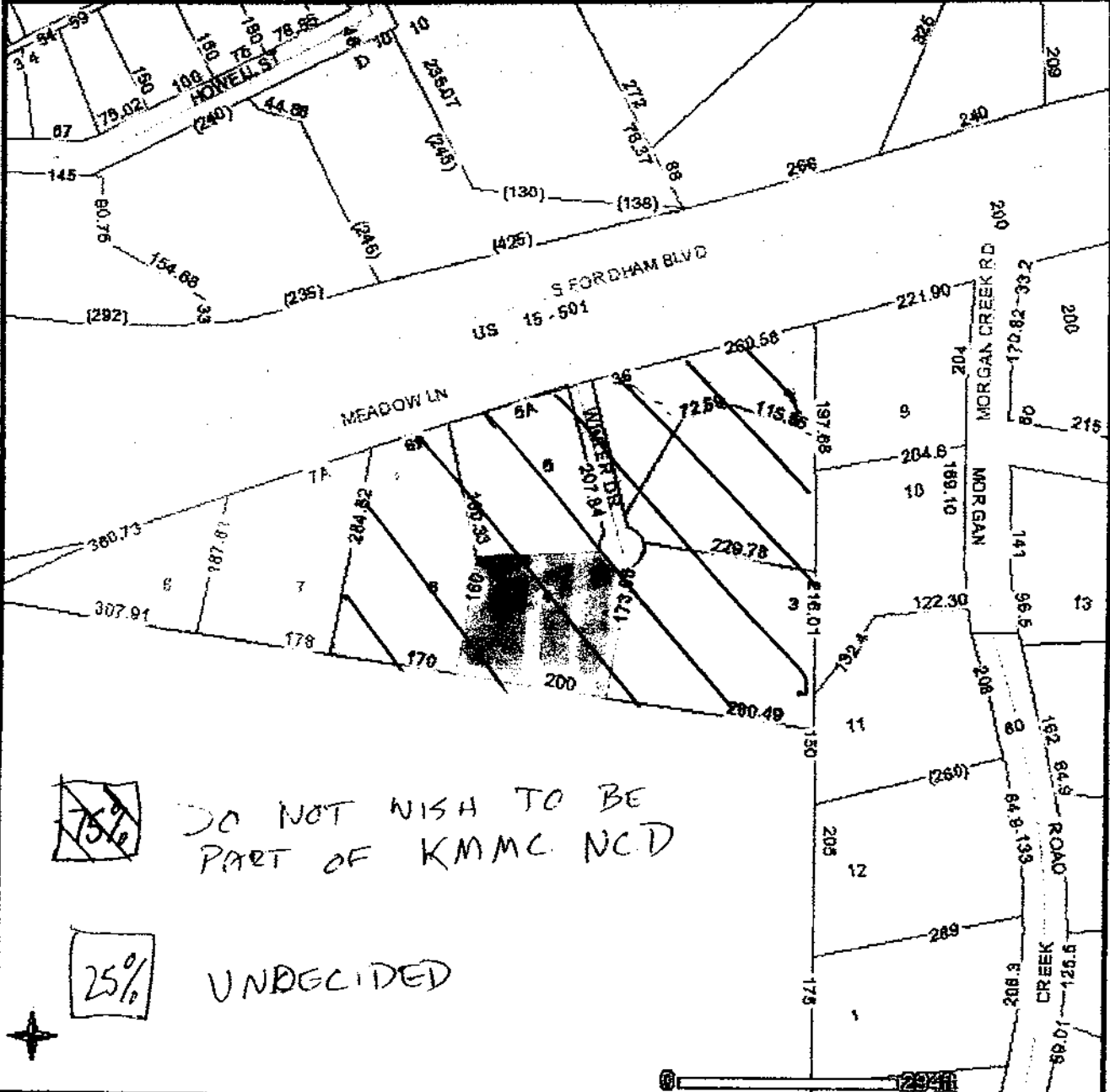


Lot 8

Mark Tenney

Barbara Nowell

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.

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